SENATE—*Tuesday, April 13, 1982*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Father in Heaven, we commend to Your gracious comfort and care Senator and Mrs. Robert C. Byrd, their daughter, and her family in the tragic death of grandson Michael.

Lord Thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hadst formed the earth and the world, from everlasting to everlasting Thou art God.—Psalm 90: 1-2.

Gracious Father, the Senators have heard many voices during the recess and often the voices are conflicting. They heard many voices from the people; they heard the voice of special interests; they have remembered their own words as they spoke to their people in their campaigns. They have heard the voice of the administration, the voice of their party, the voices of their peers. Now they must listen to the voice of conscience. Grant, O God, that they may be still and listen to Thy voice.

As they listen, study, ponder, and discuss, give them special wisdom to sift and sort and filter the voices so that out of debate and decision may come truth and justice and righteousness, that the will of God may be done on Earth as it is in Heaven. We ask this in the name of Jesus Christ whose life was a total commitment to Thy will. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

EXPRESSIONS OF SYMPATHY TO SENATOR AND MRS. ROBERT C. BYRD ON LOSS OF THEIR GRANDSON

Mr. BAKER. Mr. President, may I take this opportunity to express, I am sure on behalf of the entire Senate, our deepest sympathy to the distinguished minority leader, to Mrs. Byrd, and to their family on the loss of their grandson, Jon Michael Moore. As was stated in the prayer by the Chaplain this morning, the grandson was 17 years old. He was tragically killed in an automobile accident only a short distance from his home in Leesburg, Va.

He is survived by his mother, by his father, and, of course, by his grandparents, our colleague, Senator BYRD, and his wife Erma. I am sure every Senator joins me in extending to this family our deepest sympathy over this tragic loss.

Mr. President, I ask unanimous consent to have printed in the RECORD this week's poem entitled "The Flight of Youth," in memory of Jon Michael Moore, the grandson of Senator and Mrs. Robert C. Byrd.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

THE FLIGHT OF YOUTH

There are gains for all our losses,
  There are balms for all our pain:
But when youth, the dream, departs,
It takes something from our hearts,
  And it never comes again.

We are stronger, and are better,
  Under manhood's sterner reign:
Still we feel that something sweet
Followed youth, with flying feet,
  And will never come again.

Something beautiful is vanished,
  And we sigh for it in vain:
We behold it everywhere,
On the earth, and in the air,
  But it never comes again.

—*Richard Henry Stoddard* [1825-1903]

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe under the order previously entered before the adjournment of the Senate for the Easter recess that the reading of the Journal has been dispensed with.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. That no resolutions shall come over under the rule.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. That the call of the calendar has been dispensed with.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. That following the recognition of the two leaders under the standing order, there shall be a period for the transaction of routine morning business.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, may I inquire of the Chair the terms for the transaction of routine morning business?

The PRESIDENT pro tempore. Not to exceed 30 minutes, with Senators allowed to speak for 5 minutes each.

Mr. BAKER. I thank the Chair.

Mr. President, I believe I am correct in saying that at the conclusion of morning business, under the rule the unfinished business, Senate Resolution 20, will recur as the pending business.

The PRESIDENT pro tempore. That would not normally occur until 2 p.m.

Mr. BAKER. Yes; but at 2 p.m., the Chair will lay before the Senate the unfinished business, which is Senate Resolution 20; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. May I inquire of the Chair, is it not also correct that the so-called Symms amendment to Senate Resolution 20 will be the pending question at that time?

The PRESIDENT pro tempore. There are two Symms amendments. No. 1349 will be pending.

Mr. BAKER. I thank the Chair.

Mr. President, I anticipate that the Symms amendment to Senate Resolution 20 will consume this day, and that there is no likelihood that the Senate will be in session late today. I expect that we will recess well in advance of the normal hour of 6 p.m.

Mr. President, some effort is being made to arrive at a time certain to vote on or in relation to the Symms amendment on tomorrow.

I expect to resume debate, Mr. President, on the resolution itself, Senate Resolution 20, or any other amendment that is offered to that resolution, on Wednesday and Thursday. But for those who are interested in this particular resolution and the substance of it, as I know the distinguished Senator from Louisiana is, and whom I observe on the floor at this time. I do not anticipate general debate on Senate Resolution 20 during this day, and I do not expect votes on Senate Resolution 20 except as there may be procedural votes in relation to a quorum.

Mr. President, on tomorrow, I anticipate that, in addition to consideration of Senate Resolution 20 and amendments thereto, including the Symms amendments, it may be possible to proceed to the consideration of certain items on the Executive Calendar. There will be votes then tomorrow. I do not anticipate that there will be record votes today.

On Thursday, I expect, Mr. President, that we will continue consideration of Senate Resolution 20 as that is necessary, and it probably will be necessary. I would not anticipate that the Senate will be in session absent extraordinary circumstances then on Friday.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ORDER FOR RECESS FROM 12:30 P.M. UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order and the transaction of routine morning business not past 12:30 p.m., the Senate then stand in recess until 2 p.m. so that Members may attend party caucuses which will be conducted off the floor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time under the standing order, and I will be pleased to yield time to any Senator seeking recognition or yield control to the distinguished acting minority leader, if he wishes.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader.

Mr. President, we will not need the time, but I thank the majority leader very much.

Mr. BAKER. Mr. President, I yield back my time under the standing order.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. I thank the Chair.

CONDOLENCES TO SENATOR ROBERT C. BYRD ON LOSS OF GRANDSON

Mr. PROXMIRE. Mr. President, I want to join the distinguished majority leader in offering my condolences to Senator ROBERT C. BYRD on the loss of his grandson. I can hardly conceive of a tragedy that is greater than losing a child or a grandchild. In this case I understand that Michael, Senator BYRD's grandson, was particularly close to Senator BYRD. He was a very bright young man, and Senator BYRD made sure that he had a thorough grounding in American history, particularly the history of the U.S. Senate.

All of us feel the deepest kind of sympathy and sorrow at the loss of this young man just at the beginning of his life at the age of 17.

Mr. President, I yield to the Senator from Louisiana whatever time he may desire from the minority leader's time.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator from Louisiana and all Senators were distressed to learn that Jon Michael Moore, the grandson of our very able minority leader, Mr. ROBERT C. BYRD, had passed away in a tragic automobile accident. I can recall from my youth how easily young people can get involved in such accidents; in fact, it can happen to anyone. It is especially tragic that Michael, who had such a wonderful future, with a fine education and every incentive to provide leadership to this Nation in the future, has been taken from our midst at such an early age. My sympathies, as well as those of my wife, Carolyn, go to Senator BYRD's family, particularly to BOB and Erma Byrd, knowing how much they are suffering from their loss at this moment.

It is my hope, Mr. President, that with God's help the minority leader and his wife, Erma, will soon be back among us to provide us with the leadership and the inspiration they have bestowed upon this body so many times in the past.

Mr. President, we may not always understand why these things happen, but religion has taught me, as well as the minority leader and his wife to accept the fact that the good Lord has his reasons for taking loved ones away from us.

WE CANNOT BE AFRAID TO SPEAK OUT

Mr. PROXMIRE. Mr. President, in a small article recently published in the Washington Post, an elderly man revealed that he could have saved a Jewish pencilmaker from a Georgia lynch mob. That is, if he had told the truth in a sensational 1915 murder trial, a case that contributed to the resurgence of the Ku Klux Klan and the birth of the Anti-Defamation League, Leo Frank would not have been killed.

Mr. Frank was sentenced to death for killing 14-year-old Mary Phagan at a pencil factory, had his sentence commuted, but was later hanged in an oak grove by a mob of vigilantes who called themselves the Knights of Mary Phagan.

The Washington Post reports that Alonzo Mann now asserts that he is sure Frank was innocent of the murder and that the prosecutor's star witness actually killed the girl. The Post quotes Mann as saying, "At last I am able to get this off my heart." The terrible guilt he feels stems from his knowledge that he could have saved Mr. Frank had he spoken out.

Mr. President, we possess the opportunity Alonzo Mann lost, on a much larger scale. We have the opportunity to speak out and save not just one life, but possibly millions of lives.

The United States must speak out and add our voice to the 85 other nations who have already ratified the Genocide Convention. In doing so we would be adding our support, our crucial support, as a superpower and leader in the human rights course, to the international effort to prevent genocide from occurring. And preventing the unspeakable nightmare of genocide is clearly less difficult than attempting to halt it or seek remedies once such madness has begun.

Mr. President, the United States must not be afraid to speak out, to put its name on the record with this profoundly moral statement.

For these reasons, I urge my colleagues to ratify the Genocide Convention.

I yield the floor, Mr. President.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, may I inquire, are there matters held at the desk at this time under the provisions of rule XIV?

The PRESIDENT pro tempore. There is a bill, S. 2148, which normally would be read a second time, but will be in morning business.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business.

PROTECTION OF UNBORN HUMAN BEINGS

The PRESIDING OFFICER (Mr. SYMMS). The clerk will read S. 2148 a second time.

The assistant legislative clerk read as follows:

A bill (S. 2148) to protect unborn human beings.

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from North Carolina (Mr. HELMS), I object to consideration of S. 2148 under the provisions of rule XIV.

The PRESIDING OFFICER. Under rule XIV, the bill will go to the calendar.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe, by unanimous consent, the Senate will recess automatically at 12:30 until 2 p.m.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. At that time, the matter under consideration will be Senate Resolution 20, and the perfecting amendment by the distinguished occupant of the chair will be the pending question.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISS SHELBY WALKER COMMENDED ON SPEECH CONTEST AWARD

Mr. THURMOND. Mr. President, it has come to my attention that one of my constituents, Miss Shelby Walker of Hampton Park Christian School in Greenville, S.C., has been awarded second place in the Southern Regional Friends of Free China "I Speak for Freedom" High School Speech Contest.

Her essay relates to Taiwan and develops the theme of "How Freedom Affects Progress." I commend her on both the content of her composition and the clarity of her thought. It is refreshing to find such quality penmanship about the serious issues that face our Nation today by a person of such young age.

Mr. President, I ask unanimous consent to have this speech printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

A TESTIMONIAL OF FREEDOM

In 1776 the author of Common Sense penned this plea: "O ye that love mankind! Ye that dare oppose not only the tyranny, but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe . . . O receive the fugitive and prepare in time an asylum for mankind." Two hundred and six years later we still enjoy the benefits of progress in this asylum that Thomas Paine so loved: America. Yet freedom is still a fugitive in most countries today and will certainly become a figitive to our free lands unless we open our eyes to what is already obvious: the positive relationship that exists between freedom and progress. Let's look at freedom and how it affects economic growth, cultural development, and individual ideas.

The effect of freedom on economic growth is perhaps nowhere better demonstrated than in the classic example of Taiwan. According to the February, 1979 edition of Reader's Digest, Taiwan is an astounding accomplishment. In 1968, the United States ceased economic aid to Taiwan. But despite that fact, during 1977 the economy of Taiwan increased by eight point one percent in real terms. By 1977, its standards of living were twice as high as mainland China. This tiny country was also the eighth largest trading partner with the United States in the year of '77. All of this was accomplished by a free group of people, free of support. What was their motive? Simply the fact that they were able to pursue a goal for themselves. If they worked hard, they were rewarded by individually receiving the profits. Economic progress hinged upon their freedom.

The effects of freedom on culture are also positively demonstrated. Countries that have permitted a relative amount of freedom have always produced more than their share of great literary works. As a rule, the only literary works originating in countries with repressive governments have been critiques and satires from their own societies. The New York Times has recently reported the sad story of two oriental journalists who must pay a large price—imprisonment—for publishing critiques of their government on mainland China. When freedom ebbs, great musical artists also seem to disappear. Communist East Germany has not produced anything near a Brahms or Beethoven; neither has Soviet Russia produced the likes of a Tchaikovsky. And from a more recent example, it is ironic that a country as massive as mainland China is barren, while tiny Taiwan can produce a great conductress such as Helen Quach. It is ironic, but it is not surprising, since the arts in mainland China must be utilitarian in nature, and always glorifying of the government. Repression has never been the friend of creativity. Although education exists in repressive countries, it is only a tightly censored form designed to control the mind. For years after Communist takeover of Red China, Chinese children knew nothing more of their heritage than "Mao." Thus it is clear that freedom affects cultural development.

Last, and most important, freedom's effect on the progress of individual ideas is undeniable. It is here that freedom must take its first effect. While Alexander Solzhenitsyn was in his prison camp in Russia, he learned a very important lesson—one we wouldn't expect to be learned under such conditions. He found what it meant to be truly free. It is when a man is free in his own mind that he is the freest, no matter where he is. The freedom to think is a privilege of which individuals can rarely be robbed. Chiang Kai-Shek refused to be robbed of this freedom. It was freedom to think that caused him to comprehend the difference between liberty and repression and to act on that comprehension by preserving the liberty of the free Chinese on Taiwan. To ask a man who is free in his own mind to remain subject to repression is to ask him to endure a great contradiction against himself. With every defector and with every refugee that is successful in leaving any Communist land, we can be assured of many others who are not successful, and who must endure this contradiction.

Unlike Thomas Paine, those of us in America who were born into freedom have never seen her as a fugitive. Paine was right: "What we obtain too cheap, we esteem too lightly." Through Taiwan's example, let's learn to appreciate the progress that freedom brings, and the effect that freedom has on the economics, the culture, and the ideas of man. Let's be thankful that in freedom's absence there are still men like Russia's Sakharov, and mainland China's untold dissidents who plead with their countrymen to receive their fugitive: freedom. And together, in America and Taiwan, let's vow that in our countries we must never, never allow freedom to become the fugitive.

SHELBY WALKER,
Hampton Park Christian School.

LATE PAYMENTS BILL NOW NEARING ENACTMENT

Mr. SASSER. Mr. President, I am happy to report to my colleagues that late payments legislation is now nearing enactment. On the first day of the 97th Congress, I introduced legislation, S. 30, which provided for interest penalties to Government agencies that were late in paying their bills. The General Accounting Office has estimated that 40 percent of all Government bills are not paid on time.

S. 30 and a companion measure S. 1131, the Delinquent Payments Act of 1981, were the subject of extensive hearings by the Senate Governmental Affairs Subcommittee on Federal Expenditures, Research, and Rules chaired by my distinguished colleague, Senator DANFORTH.

S. 1131 was passed by a unanimous vote in the Senate on December 15, 1981. A companion measure was also passed unanimously by the House of Representatives on March 23, 1982.

I am confident the few remaining technical differences between House and Senate versions of late payments legislation will be worked out shortly and that a late payments bill will soon be signed into law.

Mr. President, the small businessmen of this country will be well served by this legislation once it is signed into law. As evidence of that fact, I ask unanimous consent that an editorial in support of late payments legislation which recently appeared in the April 6, issue of the Washington Report of the U.S. Chamber of Commerce be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PAYING BILLS ON TIME

In the next few weeks, Congress is likely to send to the White House a bill that should provide financial relief to businesses that contract with government.

This legislation also should provide a measure of satisfaction to most other Americans.

Conferees are ironing out minor differences in Senate- and House-passed versions of the Prompt Payments Act. This legislation would require federal agencies to pay their bills on time or face interest penalties.

Both bodies' bill would establish a 30-day standard for agency payments to firms contracting with them for goods or services.

The House bill would impose penalties when payments are more than 15 days overdue. The Senate measure does not provide a 15-day grace period; interest would begin accruing on the 31st day.

Enactment of the Prompt Payments Act in either form should alter the long-standing pattern of late agency payments to contractors, many of whom have been forced to borrow substantial sums to cover operating expenses while awaiting payments from government agencies.

Congress deserves thanks for its action on this worthwhile legislation from those firms that do business with government.

And lawmakers deserve at least a self-satisfied smile from the rest of us, who once a month must grit our teeth and mail checks to cover our bills.

INTERGOVERNMENTAL COOPERATION AND REGULATORY REFORM

Mr. SASSER. Mr. President, officials of State and localities now have greater freedom to advise Federal agency administrators about Federal rules and regulations due to an amendment which Senator DURENBERGER and I offered to the Regulatory Reform Act.

State and local officials are accountable to Federal agencies, as well as to the Congress, for running a significant number of Federal programs. The administration estimate of grant-in-aid outlays for 1982 is $91.2 billion. That is why it is imperative that State and local officials have an opportunity to participate at the earliest stages of the development of policies affecting the programs for which they are answerable.

The Durenberger-Sasser amendment to the regulatory reform bill will permit a high degree of intergovernmental cooperation in the development of Federal rules and regulations. I commend my colleague, Senator DURENBERGER for the bipartisan way in which this amendment was forged and accepted as part of the regulatory reform bill.

Mr. President, I ask unanimous consent that a letter from John J. Gunther, executive director of the U.S. Conference of Mayors, which tells of the importance of this provision to State and local governments be printed in the RECORD immediately following the conclusion of my remarks. I also ask unanimous consent that a letter from Francis B. Francois, executive director of the American Association of State Highway and Transportation Officials on the same matter be printed in the RECORD immediately following the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. CONFERENCE OF MAYORS,
Washington, D.C., March 31, 1982.

Hon. JIM SASSER,
260 Russell Senate Office Building, Washington, D.C.

DEAR SENATOR SASSER: I wanted to take a moment to express our gratitude to you and your staff for the tremendous effort you put forward on behalf of state and local governments in adding language exempting us from the provisions of the Federal Advisory Committee Act. (FACA)

As you are well aware, we have been working on this amendment for over three years, and we are most appreciative of the fact that you have been our constant companion in seeking to remedy the problems created by FACA.

Your remarks on the FACA amendment to the Regulatory Reform Act demonstrated again your keen understanding of the problems faced by Mayors and other local and state officials in attempting to shape and implement federal programs. Most importantly, they reflected your sensitivity to the nature of the intergovernmental partnership shared by federal, state and local governments.

Again, thank you for your assistance on this important piece of legislation. We believe it will go a long way to serve the public interest at all levels of government by assuring that officials designing, funding and implementing programs are free to consult with one another.

Best regards.

Sincerely yours,

JOHN J. GUNTHER,
Executive Director.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
Washington, D.C., March 26, 1982.

Hon. JAMES R. SASSER,
U.S. Senate
Washington, D.C.

DEAR SENATOR SASSER: We want to extend our warmest thanks to you for your part in amending the Regulatory Reform Act (S. 1080) during its consideration in the Senate, to change the Federal Advisory Committee Act so that we can once again conduct effective and open dialogue with our counterparts in the Federal agencies.

There is no question that the decision of the Court in the Center For Auto Safety case curtailed the effectiveness of relationships between AASHTO and its member state departments of highways and transportation and the federal transportation agencies, and that it has at times caused undue delays in making decisions, misunderstandings that could have been avoided by more open communication, and needless expense. We are pleased at reference to this Court decision by the Senate and at having it included in the Congressional Record. For the sake of an improved Federal system, we hope your amendment will lay the issue to rest, and that it will now be accepted by the House.

We again thank you for your efforts, and stand ready to be of assistance wherever possible.

Very truly yours,

FRANCIS B. FRANCOIS,
Executive Director.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 2 P.M.

Mr. LONG. Mr. President, it is my understanding that having dispensed with the quorum call the Senate will stand in recess until the hour of 2 p.m.

The PRESIDING OFFICER. The Senator is correct.

The Senate, at 12:31 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

THE FALKLAND ISLANDS

Mr. MOYNIHAN. Mr. President, this is the first occasion that the Senate has been in session since April 2, when the Argentine Government, without provocation and without right or cause, invaded and occupied the Falkland Islands in the South Atlantic Ocean. It is, therefore, appropriate, Mr. President, that we should consider this matter at the outset of the first day on which we return.

Mr. President, I wish to place this issue in a context which is perhaps not sufficiently appreciated, neither in the Nation nor, perhaps equally, in our Government.

This is not the first act of violence or aggression in the world since the signing of the United Nations Charter, with its provision in article 2, section 4, that:

> All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other matter inconsistent with the purpose of the United Nations.

This is, I reiterate, not the first act of aggression, of armies crossing boundaries. It is only the most recent. One needs only think of Afghanistan, think of Cambodia, think of the bleak history of the world over the last two decades in that regard.

This is, however, the first occasion since the end of the Second World War, and the formation of the North Atlantic Treaty Organization, that nationals of a NATO member have fallen under foreign military rule.

I repeat, Mr. President, because this is the context in which I desire to speak: The invasion by the Argentine military of the Falkland Islands and their occupation is the first occasion since the establishment of NATO in 1948 that nationals of a NATO member have been subjected to military occupation by another power. This demands the greatest attention of our Nation, as well as the other members of the Alliance, and requires the closest attention as to how we respond and the context in which we respond.

I propose the NATO context.

There is perhaps, Mr. President, one almost equivalent event. It occurred in 1960, when the armed forces of the Republic of India, in violation of the United Nations prohibition of article 2, section 4, invaded the Portuguese enclave—the United Nations would call it a colony—of Goa on the west coast of India.

The matter was brought to the Security Council, and Adlai Stevenson, then our permanent representative, spoke at length and with great force to the justice of the Portuguese claim that the Charter had been violated, that India was in violation, that Indian forces ought to withdraw.

A resolution was introduced in the Security Council, calling on the Indians to withdraw.

However, as a demonstration of its alinement with the Republic of India, the Soviet Union vetoed the resolution. The aggression continued and the conquest was consolidated, and to this day it has not been reversed. Clearly it will not be.

Indeed the only persisting consequence of India's invasion of Goa, is that Goa is off limits to U.S. Ambassadors. For all other purposes, the state now has been absorbed by a larger province. During my tenure as Ambassador to India, certainly, I was instructed not to visit the former Portuguese territory, and I assume that the prohibition still exists.

There can be no question, though, that Goa was a colony, as would generally be understood in the terms of General Assembly Resolution 1514, known informally as the U.N. Charter of Decolonization.

Goa was clearly a colony. There had been a native Indian population there when the Portuguese arrived in the 16th century. They took over the territory and subjected the local population to whatever decrees they chose. There was no exercise of the principle of "self-determination of peoples," a principle asserted in the first article of the U.N. Charter. Goa was inhabited by a population distinctly different than the Portuguese, previously resident in a different part of the world. That the institutions of the U.N. would agree this was a colony was insured by what the British called the "salt water rule"—which is that a nation can only have colonies if it must cross salt water to reach them. Thus the Soviets can with impunity maintain colonies on the continguous edge of their nation without rousing anti-colonial sensibilities in the U.N.

The case of the Falkland Islands is altogether different. The Falkland Islands are territory of a NATO member and cannot be considered a colony in the same sense as Goa, as I shall explain momentarily. These islands have now been invaded by an outside power, and nationals of this ally are now under the effective control of the military of that power.

The Falkland Islands were an uninhabited group of islands of the kind that were encountered in significant number during the 16th century, in the age of circumnavigation, when European sailors first crossed all the great oceans of the world. They were subsequently settled by Britons, by Welsh sheepherders in the main. Now, having been invaded and occupied by Argentine Armed Forces, the Argentines commence the first effort to make a colony of the Falkland Islands in the sense that would normally be acknowledged at the United Nations. A colony could emerge from this context because Argentina is invading a country with a different language, with almost an entirely separate history, using its forces in a classic military maneuver to subjugate another people.

On the day following the invasion, the Security Council was clear on this. In effect, the Security Council said, "let us have no talk of colonialization. If there is any colonialization here, it is by the Argentines." The Security Council resolution on this matter was explicit, with a terseness that suggests the case was overwhelming.

On April 3, the Council adopted a resolution that said:

The Security Council,

Recalling the statement made by the President of the Security Council on 2 April 1982 calling on the Governments of Argentina and the United Kingdom to refrain from the use of threat or force in the region of the Falkland Islands (Islas Malvinas);

Deeply disturbed at reports of an invasion on 2 April 1982 by armed forces of Argentina.

Determining that there exists a breach of peace in the region of the Falkland Islands (Islas Malvinas),

1. Demands an immediate cessation of hostilities;

2. Demands, an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas);

3. Calls on the Government of Argentina and the United Kingdom to seek a diplomatic solution to their differences and to respect fully the purposes and principles of the Charter of the United Nations.

On this occasion, Mr. President, in contrast to what happened with respect to Goa, and possibly to suggest that there was a different perception, the Soviet Union did not cast its veto. Only one nation voted against the resolution: Panama, as a measure of Latin American solidarity, I assume. I do wish, however, it had not done that. The day may come when Panama will wish the United Nations Charter to protect it.

To say that the U.N. Security Council was emphatic in its denunciation of the Argentine action, Mr. President, is not at all to say that the issue of the sovereignty of the Falkland Islands is not a matter of dispute. Title to the islands is clearly disputed. It is a condition that is as common in international law as it is in domestic law. The Falklands are, as I have said, one of the many uninhabited islands discovered in the age of circumnavigation and only subsequently settled. One is reminded of the manifest surprise of a succession of Soviet diplomats at the U.N., who, having extended their remarks at some length on the unhappy circumstances of the natives of the Indian Ocean island of Diego Garcia, overwhelmed by British and now American masters, when they learned that the only natives of Diego Garcia were flora and fauna. No people lived there before the British arrived.

International courts, when dealing with disputed claims, do not look for the perfect title. Professor Leo Gross of the Fletcher School of International Law and Diplomacy, one of the world's leading authorities, perhaps the leading authority, on such matters, informs us that the courts will simply seek the party with the better title. Here there can be no doubt that the British have the better title to the Falklands.

In international law, there have been, traditionally, three tests of title of sovereignty. One is the test of history. Second is the test of effective possession. Third is the test of display of sovereignty. Mere protest extended over time does not make any addition to a disputed claim. There can be no question that, with respect of the three accepted tests—of history, of effective possession, of display of sovereignty—the British claim is overwhelmingly the better.

The fact that the Argentines have protested this claim for 150 years and more does not add to the strength of their case. It weakens it for the simple fact that protest, extended over long periods of time, unaccompanied by any change in the circumstance protested, in fact erodes the grounds for the protest. That the Argentines may have protested the situation for 150 years or more does not change the fact that they have not been able to change it and, indeed, it strengthens the mirror image, which is the effective display of sovereignty by the British.

Mr. President, if you will look at a map of the Falkland Islands, you will see their history written there in the same manner as is written the history of many of the islands encountered in the course of the great circumnavigations. There is a Port Salvador, which is obviously a Spanish name. There is a place called Choiseul, which is a French name. But overwhelmingly, you find English names, like Queen Charlotte Bay. Queen Charlotte, of course, was the consort of George III.

I noticed this name on the map because the trout stream at the bottom of the hill on which my farm is located in New York State is Charlotte Creek—it was named in the same era, for the same person. There is Carcass Island, there is Berkeley Sound, and there is the capital, Stanley, and the like.

To further illustrate the point about the mutilingual Europeanization of the region during this period, Cape Horn nearby is named not because this particular promontory looks like a horn, but rather for the Dutch city of Hoorn, with two "o's."

The history of these islands is perhaps not history well enough known. For the benefit of my colleagues, I will relate a bit of it.

Since the 16th century, Britain, France, Spain, and Argentina have claimed the Falklands. As I say, you can find one Spanish name, you can find one French name, though you find in the main British names. The islands were discovered, evidently, during Ferdinand Magellan's great circumnavigation of the globe in 1520.

That, for some reason, is not as clear as it might be; if he did find them, he left no trace. For the British, in 1592, a Captain John Davis ran upon the islands and claimed them for the British Crown. It was the practice in those days, and not disputed—certainly not disputed where there were no occupants. In 1690, a century later, the islands were named for Viscount Falkland, who was then treasurer of the Royal Navy.

The Spanish abandoned the Falklands in 1811, having been most recently in occupation. This was done as part of Spain's general withdrawal from the region after the beginning of the South American rebellions of Simon Bolivar. Agentina declared its independence in 1810, and the Spanish later withdrew. The Argentines got to the island in 1820 and raised their flag but did not establish a settlement until later, according to some accounts not until 1829.

In 1831, they having built a fort, they seized three American sealing ships. We were now beginning that great era of sealing and whaling in the South Atlantic.

The Americans were part of those fleets. In 1831 three of our ships were seized by Argentine forces, and the U.S. ship *Lexington*, under the command of Commander Duncan, was dispatched to release the American ships. He did that and more. Perhaps beyond his orders, he destroyed the Argentine fort. These actions were undertaken at the direction of the U.S. Consul in Montevideo, but President Andrew Jackson subsequently validated and authorized what he had done.

In 1833, the British, who had the largest sealing and whaling fleet in the region, resolved that they did not want to see happen to their ships what had happened to the Americans. There are no rights or wrongs in the behavior of these captains. It was behavior common at the time. But the fact is the British took over the Falklands then, settled them, and commenced the administration of the Falkland Islands which has continued in every year for 150 years.

One of the key naval battles of the First World War, the "Battle of the Falkland Islands," took place in 1914 between the German and British fleets in that area.

For the last several decades, negotiations have been conducted by Britain with the Falkland Islanders and Argentina. The British have in recent years sought to satisfy the Argentine claim. The British did not declare this dispute nonnegotiable. They negotiated. They are no more reasonable than the next nation perhaps but they have negotiated this.

It is a fact that in the signing of the U.N. Charter, which was to be done in alphabetical order, Argentina chose not to sign first, lest the British, in signing, put in some reservation on the subject of the Falkland Islands. The British did not do so, but one is reminded that these two nations have been discussing the matter for some time now.

In 1980, a British special negotiator, Nicholas Ridley, led a delegation to the Falkland Islands to determine if there was a way to resolve Argentina's claim. It is generally understood that three suggestions were made.

The first could be described as the "Andoran option" of joint British-Argentine administration. Andora of course is the small principality in the Pyrenees between Spain and France. It is jointly ruled by the President of the French Republic and the Bishop of Seo deUrgel. It is an arrangement dating from the Middle Ages—the President of France having long since inherited the sovereign rights of the French bishop who had originally been cosovereign and has worked out fine.

Second, there was put forward what could be called "the Hong Kong solution." The British would acknowledge the sovereignty of Argentina, as the British acknowledge the sovereignty of China over the islands down the river from Canton, but they then could lease them back for an extended period.

Finally, there was a proposal to do nothing, to maintain the status quo.

It was the vote of the islands' legislative council, cast 7 to 1, in January a year ago, that the third option would be chosen. The people of the islands said they desire to remain Britons; they want sovereignty to remain with the British.

It does nothing but bring great credit to the British people and to Prime Minister Thatcher to point out that, throughout this matter, she has said that the will of the islands' inhabitants must be the primary determinant of the outcome of the issue of sovereignty and control. That is a democratic assertion; a representative government must be bound by the will of people.

It surely cannot be in the economic interests of Great Britain to sail this huge fleet halfway around the world in the interests of 1,800 subjects and several hundred thousand sheep. But what would Britain stand for in the world if issues of principle did not, on an occasion such as this, overcome any interests of economy or otherwise?

I suggest, Mr. President, first of all, that the facts are so overwhelming here that the British need not fear that they would do any injustice to their own subjects if they were to take this matter to the International Court of Justice. They can do this very much in the manner that the United States and Canada have agreed to have resolved outstanding issues in the Gulf of Maine.

That is to say, under the revised rules of the court, a special chamber can be established to hear a case—a chamber, in effect, comprised of judges whom the disputing parties wish to hear the case. In the issue between the United States and Canada, it was stated that should the judges they hope to see on the bench of this special chamber not be chosen in the secret ballot by which they are chosen, the parties would go to arbitration. They were chosen.

I hope the U.N. Security Council resolution will be abided by, that the Argentine forces will withdraw, and that the British and the Argentines will agree to take the case to the World Court.

Secretary of State Haig has recently put to himself demands which few persons could sustain in this matter. He could, I suggest, propose that the issue be taken to the international courts. I am confident the British position would be upheld, and that would be the proper forum.

However—and with this I commence to conclude, if I may ask the distinguished Presiding Officer to bear with me just another moment—our Secretary of State should make absolutely clear that there is nothing to mediate between a country using force without provocation and a country resisting that use of force.

Mr. President, that is what NATO is about. I began these remarks by saying that we must consider this question in the NATO context. This is not a question of colonization or decolonization. It is not a question of the South Atlantic, nor a question of the Western Hemisphere. This is the first time in the history of the NATO alliance that nationals of an ally have been occupied by military force—nationals and territory.

If we do not stand by Britain in this moment of mild inconvenience and remote danger, who can ever suppose that we will stand by Britain or any of our other allies in the event of a grave and urgent challenge of the kind NATO is designed to resist?

It is not the case that there could be no better formula for insuring that such a grave and urgent challenge arises than to demonstrate our unwillingness to face a mild and remote one?

This is exactly the situation that President DeGaulle envisioned when he took France out of the military wing of NATO. This is the test of DeGaulle's hypothesis, that we would not stand by our allies. This is the test of our understanding of the alliance.

Mr. President, I see that my distinguished friend from Maryland has risen.

Mr. MATHIAS. Mr. President, will the Senator from New York yield for a brief question?

Mr. MOYNIHAN. I am happy to do so.

Mr. MATHIAS. Mr. President, as I listened to the Senator from New York, my mind recalled the words spoken by the late President John Fitzgerald Kennedy, when he received a degree from Yale University, that he had then attained the best of both worlds—a Harvard education and a Yale degree.

I thought at the time that President Kennedy was really guilty of a rather churlish display of Cantabrigian arrogance. However, having listened to the Senator from New York and having followed very carefully the historical development of the title to the Falkland Islands which he has offered the Senate today, I say to the Senator from New York that I now believe there is at least a scintilla of evidence to support President Kennedy's statement.

My question is this: The Senator from New York places a value on the question of self-determination, which is fundamental to this whole issue, is it not?

Mr. MOYNIHAN. It is fundamental.

Mr. MATHIAS. And it is a principle that has to be sustained by the United States beyond any other questions that are involved.

Mr. MOYNIHAN. Beyond any other question that comes before the world community.

Mr. MATHIAS. And there really cannot be any illusions on the part of the American people on this particular principle.

Mr. MOYNIHAN. There cannot be. There ought not to be any. Nor should there be on the part of the administration. We cannot be impartial in this matter.

The Senator from Maryland and I were both graced and blessed by the friendship or the company on occasion of President Kennedy. There was another line that President Kennedy was fond of quoting. It was from Dante, in which he said: "The hottest places in hell are reserved for those who in a moment of moral crisis maintain their neutrality."

We cannot be neutral on this issue.

We should be prepared to let an international court adjudicate the administrative question, but not to adjudicate the principle.

Mr. MATHIAS. There is no adjudication of that principle.

I sent a message to the Ambassador of Great Britain just last Friday stating that I had no question in my mind that what was at stake was the issue of self-determination.

Mr. MOYNIHAN. What I meant, if I may say, is that one could with great security ask the International Court of Justice, the Special Chamber in particular, to say "is this not the case?" because the answer would be yes that it is the case.

Mr. MATHIAS. And it is fortunate for us that it also involves NATO obligations. It would be a much more uncomfortable position to the United States if our NATO obligations were in conflict with the principle of self-determination.

Mr. MOYNIHAN. I thank the Senator from Maryland for that point. I mean it is clear we have friends in the Western Hemisphere who are unsettled, who recognize a division between their hemispheric loyalties and their loyalties to the charter. We have a Rio Treaty in which we are fellow participants with Argentina. But it is to the NATO connection that we must address our first concern because it is our greatest concern. It cannot be otherwise. It is a fact that history has given us. It has not been our choice.

I thank the Senator from Maryland for his remarks.

Mr. MATHIAS. I thank the Senator from New York for the very eloquent and illuminating remarks he has offered the Senate because I think it adds something to the national understanding of what has up to now been a rather distant and exotic subject.

Mr. WARNER. Mr. President, has the Senator yielded the floor?

Mr. MOYNIHAN. Mr. President, if my friend from Virginia will allow me two small matters to conclude, it will not take but 2 minutes.

Mr. WARNER. Mr. President, I just wish to commend the distinguished Senator from New York for his special insight into this problem and the courage with which he expressed his convictions here today.

I yield to the Senator.

Mr. MOYNIHAN. I thank the Senator from Virginia.

Mr. President, at the conclusion of my remarks I ask unanimous consent that an illuminating and forceful essay by Thomas Franck, a professor of international law at New York University Law School, entitled "Falkland Crisis Erodes Rule of Law," which was published last week in Newsday, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsday, Apr. 9, 1982]

FALKLAND CRISIS ERODES RULE OF LAW

(By Thomas Franck)

The Falkland Islands may be small, underpopulated and remote, but the issues raised by the conflict over their possession are transcendent, immediate and dangerous.

At one level, what is at stake is approximately 6,000 craggy square miles (an area slightly larger than Connecticut) in the remote Southwest Atlantic and a chunk of Continental Shelf that may contain oil.

At a more profound level, the dispute raises questions, the answers to which may determine whether mankind survives by wit and discretion or extinguishes itself in a fit of pique.

The first issue is basic to human rights and peace: May a population be transferred from one "owner" to another against its will, like a baseball player?

On this, the United Nations Charter and international law are absolutely clear. Self-determination is a basic right of all peoples and a cornerstone of friendly relations among nations.

In its challenge to Great Britain, Argentina is not the first country to assert a right of "historic title" to a territory taken from it a century or two ago. In 1974, Morocco set out to "liberate" what had been the Spanish Sahara, against the clearly registered will of the population living there. A year later, the International Court ruled overwhelmingly that the preference of the inhabitants must take priority over the rights of a neighboring state based on an old claim.

There are only about 1,800 people living in the Falklands. Does that make a difference?

Nowhere in the UN Charter, or in international law generally, is the right of self-determination limited to large populations. Logically, such a line is virtually impossible to draw.

What about Djibouti (population 65,000), St. Vincent (90,000), the Seychelles (50,000) or Belize (120,000)? All these former colonies have freely determined their future by choosing independence. Conversely, the 5,000 inhabitants of St. Pierre and Miquelon, at the mouth of Canada's St. Lawrence River, and the 27,000 people of Gibraltar have determined their future by deciding to remain French and British, respectively.

In only two instances has self-determination of a population been denied—one being the case of Spanish Sahara, the other East Timor, a former Portuguese colony annexed in 1975 by Indonesia. In both cases, there has been severe fighting and bloodshed ever since.

Clearly, the UN charter is right: Respect for self-determination is the cornerstone of peaceful relations among nations.

Even more important is the charter's principle that states refrain from the use of threat or force in their international relations. It is this fundamental rule that the Security Council reiterated Saturday when it overwhelmingly demanded that Argentina immediately withdraw all its forces from the islands, which they occupied the day before.

Unfortunately, the prohibition on unilateral use of force has been eroding ever since the charter's adoption in 1945, and with frightening acceleration in the last five years. Among the precursors to the Falklands takeover, we can count the Vietnamese invasion of Cambodia, the Soviet Union's seizure of Afghanistan, Israel's air strike against Iraq's nuclear reactor and Iran's capture of the U.S. Embassy in Tehran.

Mankind is perched precariously on a thin ledge of civilization overhanging a dark chasm. That ledge is supported by nothing more than the gradual accretion of a public belief that certain kinds of conduct are simply unthinkable, that some options must never be exercised under any circumstances.

Each time a state takes the law into its own hands—whether in a good or bad cause—it makes the unthinkable thinkable, thereby destroying another buttress supporting civilization's frail ledge.

Once a violent option has been exercised, the process of making the thinkable once again unthinkable is rather like putting toothpaste back into the tube. A first step, however, is for the international community to rally behind the violated principle and restate it as forcefully as possible. That, at least, the United Nations has done.

Mr. MOYNIHAN. Mr. President, I express my gratitude to Professor Franck for the clarity of his exposition of this matter. His view is a bit at variance with mine but for that reason probably the more compelling.

JACK ROSENTHAL—PULITZER PRIZE WINNER

Mr. MOYNIHAN. Mr. President, last evening we learned with great pride in New York that Mr. Jack Rosenthal, of the New York Times, had received the Pulitzer Prize for editorials written in 1981. His are, indeed, compelling and extraordinarily important editorials. The Pulitzer Committee wisely chose to award a very rare prize to one of the most insightful and thoughtful citizens of New York.

Mr. President, I ask unanimous consent to have printed in the RECORD these editorials so that the Nation in future years might know and have easily accessible reference to the editorials thought to be the finest written in the United States last year.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 13, 1982]

SKETCHES OF PULITZER PRIZE WINNERS

EDITORIAL WRITING—JACK ROSENTHAL

Serving as deputy editor of The New York Times editorial page since 1977, Mr. Rosenthal was cited for writing on "a wide range of concerns" from the national reaction to the freeing of the Iranian hostages to national intolerance toward fat people. Mr. Rosenthal, 46, joined the Washington bureau of The Times in 1969 and has been chief urban affairs correspondent, assistant Sunday editor and editor of The New York Times Magazine.

[From the New York Times, Jan. 25, 1981]

THE WEEK OF THE SPLIT SCREEN

Inauguration is always a time for emotions. The Outs try, with mixed success, to keep stiff upper lips as they pack up. The Ins, sure that theirs is a triumph of principle, not just party, flaunt furs and dance till dawn. The feelings of both are understandable and healthy, releasing the energies that keep the political merry-go-round turning. But this year, the emotional climate is vastly more complex; roller coaster is more like it. What energies will be released now?

On Tuesday, Ronald Reagan, recently of Pacific Palisades, Calif., 90272, was skillfully demonstrating who's in charge now by taking America on a tour of his Washington. "Standing here, one faces a magnificent vista, opening up on this city's special beauty and history . . ." he said as the television cameras swept across the heroic monuments. A rare Inaugural moment, yet it was hard to pay attention. One's mind keep slipping into split screen, with the other side turned to that unseen airport in Teheran.

It was like that all week. Yes, it was said for departing Democrats; but there was also exhilaration. The poignant picture of Amy Carter in tears at leaving her friends must be paired with the jubilant one of her father embracing former hostages. Yes, it was joyful for arriving Republicans. But they had to share their moment of triumph. As they celebrated in Washington, the country was watching first the door of an airplane in Algiers, then 52 Americans making their way along perhaps the oddest but most welcome diplomatic receiving line ever formed.

Triumph, loss, pride, relief, patriotism, humiliation—all mixed. And before long, anger, as stories of mistreatment filtered back. Sgt. Rodney Sickmann told his family on the phone: "When we got off the plane we set our watches ahead 2,000 years." Those who still had their watches, that is; Richard Morefield had to fight to keep his wedding ring. Others told of solitary confinement, beatings, elaborate death threats. Jimmy Carter characterized the mistreatments of the hostages as "acts of barbarism."

Small wonder that a Detroit man said, "I'm damn mad"; that a young woman in Baton Rouge said, "Let's bomb them"; that Americans everywhere were angry. They were reflecting the split-screen torment: ceremonial patriotism on one side, wounded patriotism on the other. The crisis has imparted a deep unease. Just as the hostages have to go through a period of psychological decompression, so will the country. The sense of relief may be profound and the direction of the energies released unpredictable.

Which will triumph: an angry desire for revenge, or reasoned self-interest? Since hawks tend to support him, Mr. Reagan has a strong capacity to guide their passions—and his initial direction is excellent. He says he intends to honor the commitments made to Iran. And Senator Baker, the Republicans' new Senate majority leader, wisely urges everyone to take it easy: "The wound is too fresh for us to try to formulate a policy at this time."

What remains to be done is to help the public understand that Iran remains important to American interests. Why, before the Iranian revolution, did the United States feel the need to maintain 50,000 Americans there or to provide Iran with billions in modern arms and intelligence equipment? Because America and the West would turn purple without oil imports from the Middle East. The need for those imports is the energy noose, and if an independent Iran should founder, who doubts that there might soon be a Soviet hand on the rope?

At the moment, the public still sees a split screen, with vengence on one side and vital interest on the other. It will soon be evident how well President Reagan can focus attention on the right one.

[From the New York Times, Feb. 1, 1981]

THE LAST PLACE TO CUT THE BUDGET

For the moment, the hardest job in the Reagan Administration belongs to David Stockman, the young budget director. How shall the budget be cut? It's up to him to figure out which agencies should be chopped off at the knees and which should sacrifice merely a finger to two. There are, naturally, no volunteers. But in a period of boiling inflation, the budget must be cut and the man with the hatchet deserves, if not sympathy, at least suggestions of the most important priorities. Here is the most important one: hunger.

Robert Kennedy helped mobilize the country against hunger, but not many remember that it was Richard Nixon who pledged to end hunger in America. In a decade, the nation has done just that. A medical team toured the country in 1969 and found widespread hunger and malnutrition. A similar survey in 1979 found that malnutrition has substantially disappeared. America has hung a safety net under society. It is called food stamps.

Some conservatives ridicule throwing money at social problems. But food stamps—coupons that poor people can use to buy food with—have fed the hungry. Food stamps, and associated programs, may be the overreaching social achievement of our era. This year, the nation will spend $11 billion on stamps to help feed 22 million people, one American in ten.

Yet what are the noises now coming out of the Administration? Alarm; fear that this very growth denotes waste, fraud, freeloaders. It is said that food stamps are among the first things to cut in the budget, saving billions. It is said that all must share the burden. What that means is, let's cut holes in the bottom of the safety net.

How can those who use food stamps do their "share"? Some recipients can give up all their stamps, or all of them can give up some stamps. Reducing eligibility standards could reduce participation by cutting off the "richest" of the poor. But who are they? Mostly they are elderly sick people or the working poor, precisely the kind of people the Reagan Administration wishes to support.

What about cutting benefits? Recipients now get stamps worth, on average, about 40 cents a meal. Is there any humane way to cut that when a paper cup of coffee costs 35 cents? Even 40 cents hardly covers the cost of Washington's bare-bones "thrifty" diet. Surely Mr. Stockman cannot wish to be remembered for a policy of "Let them eat coffee."

In truth, the food stamp program has been subject to continuous reform in recent years. A million and a half people have been declared ineligible, including 150,000 college students. Virtually all present recipients fall below the Federal poverty line. To cut the program at all, let alone by one-fourth, is to create hunger.

Perhaps cutting other programs would require more sacrifice than taking food out of the mouths of the politically helpless poor, elderly and disabled. If so, let that be clearly demonstrated first. But until then, it is mindless—and cruel—to weigh hunger on the same budget scale as dams, dairy subsidies or interstate highways. Feeding the hungry is the last place to cut the budget.

[From the New York Times, Mar. 1, 1981]

IMMIGRATION AND THE MISSING NAIL

Who should decide which foreigners are allowed into the United States, the foreigners or the United States? In a responsible society, the question would answer itself. But that's not the way things now work in the United States.

We are a rich and generous country given to bragging about our immigrant origins. When there is obvious need, we live up to the romantic images of Miss Liberty and the Golden Door, taking in waves of freedom fighters or boat people. But romance notwithstanding, there is no longer any such thing as unlimited immigration. A million people are waiting in line to enter the United States legally; millions more are eager to jump the line; and the nation must choose which to let through the door.

The United States now purports to choose, to make its own rational immigration policy. But, in great part the policy is made by hundreds of thousands of individual foreigners who slip into the country illegally in the process, America loses.

Undocumented farm workers from Mexico, for instance, may be brave and industrious. But each takes a place that, if society were choosing fairly, might be assigned instead to a refugee from Somalia, a sister from Korea or a more deserving Mexican applicant. The country is not now making the choice. The more the system spins out of control, the more Americans lose patience with Government—and perhaps with any immigration at all.

How should the country regain control of its own immigration choices? A blue-ribbon commission, led by the Rev. Theodore Hesburgh of Notre Dame, has just provided a careful and reasonable way. Wars are lost for lack of a horseshoe nail; as the commission shows, creating a rational immigration policy turns on a nail called worker identification. That is:

If the United States wants to decide how much immigration to permit, it must do a far better job of controlling illegal immigrants.

If the United States wants to control illegal immigrants better, it needs a far better enforcement system than the starving Immigration Service's, and without requiring the Reagan budget-cutters to find much new money.

If the United States wants effective but economical enforcement, the surest way is through employers, who now are legally free to hire illegal aliens and in any case have no good way to check an employee's status.

If the United States wants to make an enforcement system effective by making employers culpable, employers must have a reliable way to screen out illegal aliens, without discriminating against legal residents who look or sound foreign.

The Hesburgh Commission could not agree on exactly how to do this. Some members would have workers show forge-resistant Social Security cards. But that conjures up police-state images to others. They would institute an automated call-in system, like that used with credit cards.

Still, whatever the differences over method, almost the entire commission strongly agrees on the need for some secure identification system. One way or another, it's the nail without which the country will keep losing the illegal immigration war.

Now the public focus shifts: to Alan Simpson, Wyoming Republican and new chairman of the Senate immigration subcommittee; to Romano Mazzoli, Kentucky Democrat and new immigration subcommittee chairman in the House. Most of all, attention turns to the Reagan Administration, which has so far evaded the commission—and the issue. Until they act, American immigration policy will stay in foreign hands.

[From the New York Times, Mar. 29, 1981]

Charity

What has Ronald Reagan declared war on? If, as first appeared, the enemy is America's economic straits, then many of us, suspending neutrality or partisanship, are willing to enlist. But increasingly we're dogged by the suspicion that he also has another enemy in mind: the philosophy of social justice this country has evolved over the last 50 years.

"I don't think people are entitled to any services," says Budget Director Stockman. Martin Anderson, the President's chief domestic adviser, says, "People are quite benevolent. That's good. But it's quite a different thing for people to demand that they have a right to a certain amount of income or services." And elsewhere the Administration says that services chopped out of the Federal budget can be supplied by the states, or business or volunteers.

In other words, there is no such thing as social obligation. There is only charity—someone else's charity. If that is the Administration's philosophy, it deserves to be denounced.

First, some semantic business. Standing alone, the budgeteers' word "entitlements" certainly does sound arrogant. The poor are not constitutionally entitled to any services they deem necessary. But there are some things people should not have to beg for.

Food, for instance, or safe housing, or a lawyer when there's trouble. Would Mr. Stockman or Mr. Anderson deny a sick person access to a hospital emergency room? Surely not. Is that an entitlement to medical services? Call it what you will.

Americans are a generous people, exceedingly generous. Carl Bakal has written that our collective private philanthropy comes to about $180 a day for each man, woman and child in the nation. In Canada, it's $35. There is a vast role for private philanthropy; there may even be a case for enlarging it. Maybe, when Federal job programs are chopped back, industry could help pick up the slack. Maybe, when funding for legal services is eviscerated, private law firms could step in. Maybe. But two problems get in the way.

If this idea of charity, of supplanting Federal social justice with private voluntary action, is sincere, then why does the Administration not pursue it?

The genial host, corporate persuader and Great Communicator in the White House needs no lessons in stimulating the private sector. Has he invited the heads of the 100 biggest companies to the White House to encourage them to create a private job program large enough to offset his budget cuts? Has he assembled partners from large law firms and urged them to provide surrogate legal services?

No. Which raises the suspicion that his Administration is much less interested in proving theories than in abandoning social welfare altogether.

Even if the Administration now injected action into this theory of voluntarism, it would not suffice.

Deep down, society knows that. Consider jobs. Franklin Roosevelt wrote to a friend in 1934 that "I cannot say so out loud yet, but I hope to be able to substitute work for relief." In 1965, Lyndon Johnson and Henry Ford II launched their then-celebrated, soon-forgotten JOBS program. Richard Nixon, Gerald Ford and Jimmy Carter all had similar ideas. One after another, under the pressure of this merger or that retrenchment, they disappeared.

But assume that a voluntary jobs program could work. How much more can voluntarism do, generally? Federal spending constitutes three-fourths of the total spent for social welfare. Even if Mr. Reagan could mobilize every one of the 800,000-odd charitable institutions, he could not begin to replace Government's role in providing services that help people ranging from alcoholics to lactating mothers.

The Federal Government has undertaken so many services because society has learned that the states alone cannot combat hunger, that volunteers alone cannot provide minimal medical care. Society has turned to the Federal Government because it is the logical place to address such needs, through the organization of voluntary programs like VISTA, or the Foster Grandparent program that Mrs. Reagan has taken to heart.

That Washington is the logical place doesn't mean it is necessarily efficient, or effective, or even humane. But to say "no entitlements," or "let the states do it," or "let the private sector do it" is a barely varnished way of saying "Don't do it." And that is not a war against inflation. It is a war against the poor.

[From the New York Times, Apr. 5, 1981]

Ragers and Fatalists

Unity: It was a week for Americans to draw together, first in shock, then in gratitude for miracles. The President seems speeding toward recovery; so do his brave defenders; and each day brings new hope for James Brady, his genial press secretary.

Division: Good news overtook bad so quickly that people were soon free to indulge in two quite different responses. They formed not partisan or ideological biocs but emotional alignments—those who reacted to the shooting with rage and those who reacted with fatalism.

"My reaction," said Maureen Reagan, "is fury and rage and anger that in this country this kind of garbage is still going on. We have got to stop it and we have got to stop it right now."

"If you sit around and worry," said Gerald Ford, "if you are apprehensive when you go out to see somebody or to have a meeting or make a speech, you just can't operate the way you ought to as President . . . you have to let it get out of your mind and go ahead with the business of the day."

Ragers felts an instant need to demonstrate revulsion, to do something. Some jumped on perceived shortcomings in Secret Service protection. Some insisted that Presidents must be still more insulated from the public. One Senator proposed limiting their appearances to closed-circuit television. Others found the suggested link between the shooting and a 1976 movie confirmation of their worst fears about the contagion of screen violence.

Fatalists recoiled from the entreaties for instant action. They marveled at how well the Secret Service did—at Timothy McCarthy, who put his body between the President and the blazing gun, at Jerry Parr, whose whole career came down to the instant he thrust the President into the car. Accepting the need for the security that already constrains Presidents, fatalists resisted a complete bubble, cutting off altogether the live contact on which political skill feeds. They were skeptical that censoring screen violence could do much good. Son of Sam's horrors were not triggered by filmed violence but by orders from a 6,000-year-old devil, transmitted through a dog.

To divide public reaction into these categories obviously exaggerates. There is middle ground. One can honor the Secret Service for what it did do—and welcome scrutiny of what it may not have done. And there is room for ragers and fatalists alike to think about what might reasonably be done to reduce violence in American life. There are two sides to the problem—lunatics and guns. Both bear thinking on.

The tide of concern for civil liberties and civil rights in the last 15 years has affected attitudes toward mental patients. Mental hospitals have been reviled as snakepits and cuckoo's nests—not to mention costly. State after state has adopted the doctrine of "the least restrictive environment." Old patients are let out; psychiatrists complain about the daunting difficulty of committing new ones.

Demonstrably, most mental patients are not dangerous. But some are, and in the process of their "deinstitutionalization," the ordinary citizen becomes desensitized to the presence of strange behavior. When alarming, or merely pitiful, public conduct is no longer noticed, a wise society should think harder about protecting the mentally ill, and itself. Closer control of troubled people might not prevent assassination attempts, any more than closer control of guns would necessarily discourage someone determined to shoot a President. But both steps could curtail ordinary violence and crime.

There is no cogent argument for permitting free access to handguns. People with a legitimate need for them should not balk for a moment at sensible controls. But cogency is not the problem; it is politics.

Only after Robert Kennedy's murder was it possible to overcome the vaunted gun lobby and enact a modest handgun control law. Is further progress possible now? Perhaps, and one political figure has special standing to make it possible. Think what a breakthrough it would be if President Reagan, as he leaves the hospital this week, were to endorse reasonable handgun controls. What a victory it would be for rage, and fatalism, and life.

[From the New York Times, Apr. 20, 1981]

THE MODEL ASSASSIN

Even as President Reagan recovers from the attempt on his life comes a startling report from California. Sirhan Sirhan, who assassinated Robert Kennedy in June 1968 is scheduled for release in the summer of 1984, and then on to asylum in Libya. How come so soon? He has been, says a prison official, "a model prisoner" and the parole agency is determined to treat him like any other murderer. What a false sense of fairness. What a disservice to the country.

When Sirhan was convicted in 1969, the jury sentenced him to die in the gas chamber. In 1972, while his appeal was pending, he was spared by a coincidence. California eliminated the death penalty. That meant the maximum sentence was life, with the possibility of parole. Possibility, however, did not automatically mean eligibility. He won a parole date only because the California Adult Authority insisted on treating him like other murderers. Typically, they serve about 16 or 17 years before winning parole. By George, then Sirhan would get the same consideration.

A new parole agency, the Board of Prison Terms, has since been established. But it, too, insists on handling the Sirhan case "in the manner normally accorded to all life prisoners." Even if the board now wanted to treat the case differently, a spokesman says, it's too late, there is no authority to rescind Sirhan's parole date.

It is a tenet of democracy that the life of an ordinary citizen is as precious as that of someone rich, famous or powerful. But that is not the same as arguing that one murder is the same as another. Even the California board now sets a minimum term of 19 years for someone who kills a prison guard compared with 17 or 15 years for a more routine street killing.

Even these distinctions do not describe the order-of-magnitude difference of Sirhan's crime. Assassination is an attack not merely on an individual life but on the political life of the country. It has to be measured on a different scale, a principle recognized in the enactment of specific Federal laws relating to assassination attempts on the President, Vice President or members of Congress.

It mocks society to deny this difference by treating Sirhan "normally." Consider the possible effect on deterrence. It may be impossible to stop an assassin willing to exchange his life for that of the President. But California invites a deranged or fevered mind to make a much different calculation: if I can stand 16 years in prison, a brave martyr to my friends, then I can expect to be lionized for life in Libya.

To treat Sirhan "normally" also mocks the opponents of capital punishment, by making their opposition look like opposition to punishment, period. These people include Edward Kennedy, who in an act of surpassing humanity in 1969, urged that Sirhan's death sentence be reduced to life imprisonment. If the ultimate effect of such humane appeals turns out to be life in Libya instead of in prison, who will believe in an alternative called life with no parole?

Is that what his term should be? We have no desire to be vengeful; we do not necessarily oppose his release, at some point, though we do not know what that point is. What we do know is that to deal with Sirhan as just another murderer communicates something about the value American society places on itself.

California parole authorities still can't or won't send the message—to lunatics, foreigners and society—that America thinks its political life is worth more than 16 years in prison. So the nation must now look to Governor Brown and the California legislature. What message do they wish to send? What kind of prisoner do they regard as the model assassin?

[From the New York Times, May 7, 1981]

THE ELECTION WAS OVER

Don't try to tell Charles Manatt that there's no projection-infection problem in national elections. He's now chairman of the Democratic National Committee, but last Nov. 4 he was walking a North Hollywood precinct for a California Congressman. Though the polls were still open, television had already projected the Reagan win. "In three different households," he recalls, "people said, hadn't I heard—the election was over. There was no point in going to vote."

Since his candidate lost by 800 votes, Mr. Manatt has reason for thinking that projections make a difference—not in Presidential elections but in other races. Some West Coast contests turned on as few as 25 votes. If projections (and Jimmy Carter's quick concession) discouraged even a few late voters from going to the polls, they may have been decisive.

Is there a remedy? In hearings today, Senator Mathias' Rules and Administration Committee will explore that question, and at least two interesting answers. One strikes us as clearly preferable, but either would be better than doing nothing.

The network news divisions seem skeptical about the problem. NBC News finds no serious study showing that projections have actually influenced outcomes. Accept that. Still, it remains easily imaginable that projection could mean infections. That being so, what harm is there in trying to avoid it?

One remedy would be for the networks voluntarily to abandon projections, as proposed jointly by the League of Women Voters, the Committee for the Study of the American Electorate and other groups: "There is one night every four years when the people should be allowed their full and fair opportunity to speak, when . . . their story should be told as it unfolds. Political projections . . . should be used sparingly, if at all."

The advocates mean to be constructive, and they believe in freedom of the press. Yet their proposal leaves us uneasy. The freedom and duty to inform is eroded as certainly by a successsion of voluntary, constructive means as by hostile assaults. If there were no other remedies, this one might warrant scrutiny. But there is another: the 24-hour voting day.

This is not a new idea; it was advanced in 1964 by CBS's Frank Stanton. Voting places in each time belt would be open a full 24 hours, opening and closing simultaneously. This would address the projection problem. And it might well encourage voter turnout, especially if coupled with Representative Mario Biaggi's appealing proposal to move Election Day to Sunday.

The 24-hour vote would not wholly eliminate the projection problem; there might be a temptation to report, even before the period ends, on election-day survey interviews. But the voters would be left with only one truly key precinct—their own.

[From the New York Times, May 29, 1981]

THE PORNOGRAPHY OF FAT

(By Jack Rosenthal)

Every era needs its own taboos, its own pornography. What is the pornography of modern America? Certainly not sex, not in a time when the most explicit devices and images are available over the counter or the television cable. But if our pornography is not sex, then what is?

Death, said Geoffrey Gorer, a British anthropologist, in the British magazine Encounter 25 years ago. Through the Victorian years, he wrote, sex was unmentionable—while death was unremarkable: "Children were encouraged to think about death . . . The cemetery was the centre of every old-established village." But gradually, as talk about sex became more open, death became unmentionable. Mr. Gorer could remember no modern novel or play with a deathbed scene of the kind familiar to Victorian and Edwardian authors.

At the time, the argument had the crystal ring of insight. Now, alas, one hears a dated clank. It may still be questionable to take children to funerals. But death has become wholly mentionable; as for deathbed scenes on stage, one quickly thinks of Tom Conti, or Mary Tyler Moore, in "Whose Life is It, Anyway?"

If neither sex nor death constitute the contemporary pornography, then what does? Anthropologists tell of primitive peoples who attach as much shame to eating as to excretion. There is reason to think our society does something similar—and that our pornography is fat.

A facet of it became evident in "Tom Jones," the 1963 movie. "In one incomparable scene," Bosley Crowther wrote in The Times, Joyce Redman and Albert Finney "make eating a meal an act so lewd, yet so utterly clever and unassailable, that it is one of the highlights in the film."

That, however, was only one facet. The pornography of fat offers a choice of pleasures. One can, with a racy sense of tasting forbidden fruit, plunge into gluttony. Or, resisting, one can become a modern puritan, telling others how unhealthy—how repugnant—it is to be fat.

This second pleasure seems to offer richer satisfaction. Indeed, if some of us sometimes feel a compulsion to eat, the rest of us seem to feel a constant compulsion to gloat. Society sends an unending stream of stern signals: A young Providence woman, 5 feet 1 inch and 210 pounds, is fired as a home health aide because of her weight . . . the Los Angeles school board issues rules requiring weight loss among teachers . . . Wisconsin officials halt an adoption because of overweight. How much? The husband, 6 feet 2 inches, weighs 215 pounds, and his wife, 5 feet 7 inches, weighs 210.

Such harsh moralizing may have reached its perverse ultimate a few years ago in the X-rated movie "Behind the Green Door." Among the circus-related sexual acrobatics was a segment in which an exceptionally gross circus fat lady was observed writhing in explicit sexual pleasure. See, the movie was saying, what's really disgusting is not sex, but fat.

The social pressure against obesity no doubt benefits the general health. What's troublesome is that we are all so humorless about it, so relentless, so determined to punish the overweight. People who think of themselves as enlightened in every other respect become, on the subject of fat, every bit as blue-nosed as, say, the Moral Majority.

Last winter Jack Kamerman, of the sociology faculty at Kean College in New Jersey, told a Times reporter: "Not only are the overweight the most stigmatized group in the United States, but fat people are expected to participate in their own degradation by agreeing with others who taunt them."

He's right; and his observation exposes in us all an intolerance more obscene and far more damaging than any form of pornography.

[From the New York Times, June 16, 1981]

COLD-STOVE LEAGUE

"On Friday," writes a man we know who likes his baseball, "I would have gone home after work, had dinner and then settled down to watch the Yankees on TV. But since there was no game, I grabbed a sandwich at the deli and went to see 'Raiders of the Lost Ark.' Entertaining, but I went home in a sour mood nevertheless. On Saturday, when I might have watched part of the game before going to a party, I finished 'Gorky Park' and still got to the party too early.

"On Sunday, I got into an argument with a friend who's delighted with the strike. He thinks baseball is the most boring sport ever invented. Normally, I'm patient with baseball critics. If they can't appreciate its constant potential for the heroic, the sly and the unpredictable, that's their loss. This time, I was surprised by my passion. Why so short-tempered, I wondered? I think it's because I'm afraid of something.

"Deep down, I know baseball is just as crass and unruly as the real world, but I prefer the illusion: baseball as an amiable, ordered world contained within the neat geometry of a stadium. Colonel and cab driver alike can argue with fine equality about a player trade or a ninth-inning bunt. The rules are known to all, and the unending variations are available to all for interpretation.

"Strike or no strike, the need for the small change of conversation persists. Already I hear people talking in the corridors the way they do in the wintertime, in what the sports writers call the Hot Stove League. The strike, says an Oriole rooter, is a hidden blessing to the Yankees, giving its injured pitchers time to heal. Perhaps not, says a Yankee fan; it may be a curse, cooling off the intensity that produced 9 wins in their last 11 games.

"But soon the speculation will turn stale. The longer the strike lasts, the more games that are wiped out and the more statistics that are defiled, the more the illusion of shared order will be defiled as well. Then baseball will look just as messy as the world outside the stadium. What I wonder is, do the owners and the players understand that? What I'm afraid of is that illusions only die once."

[From the New York Times, Dec. 27, 1981]

THE WAR AGAINST THE POOR

Ronald Reagan's anti-poverty program has three fronts. One is the social safety net, protecting "those with true need." A second is voluntarism, private charity to offset Federal cuts. The third and most important is economic recovery, the rising tide that John Kennedy said would lift all the boats. As the Administration ends its first year, the poor are losing on all three fronts—and so badly that a question begins to reverberate: what is Mr. Reagan warring against, poverty or the poor?

"We will continue to fulfill the obligations that spring from our national conscience. . . . All those with true need can rest assured that the social safety net of programs they depend on are exempt from any cuts."

That was how the President introduced the safety net last February. Its seven programs were only a partial net to begin with, protecting some middle-class benefits while omitting programs that, on their face, help the very poor.

Even so, there have been sharp cuts even in the exempt programs. School lunch and breakfast programs were in the safety net. Yet about 300,000 poor children no longer get lunch in school. Summer youth jobs were in the safety net. Those funds have been cut 27 percent.

Meanwhile, programs that should have been in the net have also been cut, even savaged. Since the Nixon Administration, it has been national policy to eliminate hunger. Food stamps have been a well-targeted way to meet that goal. Yet a million people in need will lose their food stamps altogether and most of the 22 million recipients will suffer reductions.

"With the same energy that Franklin Roosevelt sought Government solutions to problems, we will seek private solutions."

Big Government is not the only way, the President told a business audience in October. Exactly right: there is a deep strain of decent, charitable instincts in American society and Mr. Reagan has appointed a 44-member commission to find new ways to reach private resources. It is a commendable exercise. It is also a fig leaf.

How much can private supplant public services for the poor? Few of them send their children to private schools, use limousines and taxis or hire guards. They lose most from cuts in Federal funds for elementary and secondary schools, or urban mass transit or law enforcement. Governors and mayors understand the cuts: poor people feel them.

In all, Mr. Reagan has so far cut about $25 billion in social spending. If business giving, $2.7 billion last year, were to double, it would barely fill 10 percent of the gap. Even the Administration acknowledges the point. "I wish the words 'fill the gap' had never been used," says Mr. Reagan's assistant for voluntarism.

"Our aim is to increase our national wealth so all will have more, not just redistribute what we already have, which is just a sharing of scarcity."

When the President said that last February, the inflation rate was nearly 12 percent. Now it is down below 10. Much to the good—but at what price? The unemployment rate was 7.5 percent a year ago; it is 8.4 percent now. That means about a million more people are out of work (and extended unemployment insurance benefits are no longer as readily available). An ebbing tide lifts no boats.

Mr. Reagan believes that, if the Administration persists in its program, the tide will turn. A more apt maritime image is offered by Herbert Stein, economic adviser to President Nixon: "If the captain of the ship sets out from New York harbor with a plan of sailing north to Miami, 'Steady as you go!' will not be a sustainable policy, and that will be clear before the icebergs are sighted."

For poor people, the issue is not an abstract matter of ideology, or whether the Administration is right to keep the faith and wait. For them, the questions are simple: what do they do in the meantime? Why, when the Administration is so willing to increase windfall oil profits or reduce inheritance taxes, is so much of the burden heaped on their backs? In short, what safety net? What voluntarism? What rising tide?

There is only one way in which Mr. Reagan's poverty program has provided for the poor. It is the way prescribed by Reaganaut theoreticians, notably George Gilder in "Wealth and Poverty," the book widely circulated in the Administration earlier this year. "In order to succeed," he wrote, "the poor need most of all the spur of their poverty."

Mr. MOYNIHAN. Mr. President, I add another remark, as we get too solemn in these matters, that the news editor of the New York Times last evening said to Mr. Rosenthal that the Pulitzer Prize had done one thing certain for him—it had guaranteed what would be the third, fourth, and fifth words of his obituary.

ASSESSING REAGAN'S DOOMSDAY SCENARIO

Mr. MOYNIHAN. Mr. President, there appeared in this Sunday's New York Times a compelling article by Hans Bethe and Kurt Gottfried on the "Doomsday Scenario" that the administration seems to be offering us in strategic matters, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASSESSING REAGAN'S DOOMSDAY SCENARIO

(By Hans A. Bethe and Kurt Gottfried)

ITHACA, N.Y.—Rarely, if ever, has the government of a great power proclaimed its vulnerability to devastating attack by a dangerous adversary. Common sense dictates that a moral weakness should not be advertised. Yet that is what President Reagan and his aides have done: They have stated in the starkest terms that soon we shall have no credible deterrent against a Soviet first strike!

This assertion cannot mean what it says. It is, instead, a reckless move to marshal support for new weapons that are intended to regain the nuclear superiority America once enjoyed.

Let us look at the facts. The United States has three strategic forces that can drop 9,500 hydrogen bombs into the Soviet Union. Of these, 23 percent are on land-based missiles (intercontinental ballistic missiles), some 52 percent on submarine-launched missiles, and 25 percent on intercontinental bombers. The Soviet Union can launch about 7,000 hydrogen bombs at us; of these, 79 percent are on ICBM's, 20 percent in submarines, and 1 percent on aircraft. Our missiles are considerably more accurate, and the Soviet Union has compensated for this by building larger warheads.

The Russians have put most of their nuclear "eggs" into one basket—land-based missiles. They were forced to do so because of their technological backwardness and geographical position. Their submarines are inferior to ours; they have no bomber bases close to us, while ours encircle the Soviet Union; and they have not been able to develop cruise missiles, which are now revitalizing our bomber fleet. Their ICBM force is so large because that is all they can do well.

Should present trends continue, the Soviet Union will have more-accurate ICBM's in a few years. By that time, however, many of our submarines will be able to destroy Soviet missiles in their silos.

It is against this background that one must assess the Reagan doomsday scenario: The new Soviet missiles will be able to eliminate our ICBM's in a bolt from the blue; we would not be able to retaliate because enough Soviet weapons would survive our counterattack to devastate the United States; thus, we would have no choice but to yield to all Soviet demands.

This scenario pretends that United States and Soviet ICBM's face each other in a universe decoupled from the real world. It assumes that these highly complex systems, which have only been tested individually in a quiet environment, would perform their myraid tasks in perfect harmony during the most cataclysmic battle of history; that our weapons will not improve, while the Soviet Union's leap ahead. It assumes that we would be helpless when well over half our nuclear warheads have survived, and that a Soviet attack on our ICBM's which would kill at least 20 million Americans by radioactive fallout, would not provoke us into pulverizing the Soviet Union with our submarines. Only madmen would contemplate such a gamble. Whatever else they may be, the Soviet leaders are not madmen.

What then is the true rationale for the Administration's stance? Judging from many statements by some of its most prominent figures, the public must conclude that there is a significant faction in the Administration that believes in and aspires to nuclear superiority. This group contends that our technological and economic prowess make this a realistic goal and that its attainment would yield rich political dividends.

Neither of these conclusions is correct, as post-1945 history demonstrates. For two decades, we were immune to Soviet nuclear attack while the Russians lay at our mercy. Did that vulnerability deter them from blockading Berlin, absorbing Czechoslovakia, crushing the revolt in Hungary? On the contrary, it impelled them to a dangerous attempt to place missiles in Cuba in a futile effort to gain some semblance of a deterrent. It imbued them with the determination to build a credible nuclear force, whatever the cost. And only when they reached that goal did they begin to negotiate seriously, as exemplified by SALT I.

The "window of vulnerability" to a Soviet first strike does not exist. In reality, the security of all inhabitants of the Northern Hemisphere is eroding because of the irresponsible policies of both superpowers. While millions of ordinary citizens have come to recognize that security is not measured in megatons, those in positions of power continue to act as if nuclear weapons were spears or shotguns.

If the President wishes to close the true "window of vulnerability," he should pay close heed to his aroused constituents. His personal prestige and political record give him a historically unique opportunity to lead us in entirely new directions.

Mr. MOYNIHAN. Mr. President, I simply wish to add that in all of the range of authority in matters of nuclear war, nuclear peace, and nuclear strategy, none today can speak with greater authority than Hans Bethe. A refugee from Nazi Germany, he arrived here at a very young age. He immediately associated himself with the American war effort and he was standing next to Oppenheimer at Alamogordo. Bethe was present at the creation. When he speaks he should be heard, and he speaks with great alarm in this article.

Mr. President, I thank you for your patience and courtesy. I thank my friend from Virginia for allowing me to continue with these matters while he has matters of pressing importance.

Mr. WARNER. I thank the distinguished Senator from New York. It is always a pleasure to be in the Chamber when he is speaking.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I yield momentarily to my distinguished colleague from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Virginia.

The PRESIDING OFFICER. The Chair would state before the Senator commences that he will require unanimous consent if we are to proceed as if in morning business.

Mr. WARNER. Mr. President, I will yield momentarily to my distinguished colleague from Nebraska. I will not consume more than 1 minute, if that is agreeable.

Mr. EXON. Mr. President, the question of the Chair and the question of my friend from Virginia undoubtedly involve Senator SYMMS, with whom I visited. I thought we were proceeding as if in morning business. I have about 10 minutes of time that I would like to use while the Senate is in that mode before we proceed to the matter before us.

The PRESIDING OFFICER. The Chair will respond to that by saying that the Senator from New York asked unanimous consent to proceed as if in morning business. That call might be renewed by the Senator at the appropriate time. The Senator from Virginia has the floor, and the Chair recently asked if he wished to make that unanimous-consent request.

Mr. WARNER. Mr. President, I do ask unanimous consent to proceed as if in morning business for no more than 2 minutes for my purposes, and then I would be happy to yield the floor to my distinguished colleague who is so patiently waiting.

THE 240TH BIRTHDAY OF THOMAS JEFFERSON

Mr. WARNER. Mr. President, it is interesting to note that as Congress reconvenes to begin what may prove to be one of the greatest feats of political diplomacy—namely, the acceptance of a budget everyone is having difficulty accepting, and the determination of indeterminable national priorities * * * for defense and social spending programs—that today is also the 240th birthday of this Nation's third President, Thomas Jefferson.

Jefferson was a man who helped his colonial colleagues understand many of the ironies and paradoxes of his time. He was a man who brought logic out of the illogical, and reason out of the unreasonable. He was a scholar in an unscholarly age, and a gentleman in an era of ungentlemanliness.

Thomas Jefferson, farmer, statesment, inventor and author * * * drafted the Declaration of Independence, and founded the University of Virginia. He believed in the abilities and rights of all men, and he opposed with a vengeance the tyranny of ignorance.

As a Virginian, I am proud to claim Jefferson among my Commonwealth's kindred. He served his State with honor and his Nation with distinction. He was a leader in the world of his day and of ours.

Most frequently, I enjoy recalling Jefferson the farmer. Though his statements embodied in the Declaration are more popularly remembered and his proclamations on education renowned, it is his deep sense of appreciation for nature and the labor for nature's bounty which graphically depict the fullness of Jefferson * * * the true Renaissance man. On the occasion of his 240th birthday, I ask unanimous consent that some of Thomas Jefferson's statements on agriculture be inserted in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT BY THOMAS JEFFERSON ON AGRICULTURE

Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals and happiness. Agriculture is the basis of the subsistence, the comforts and the happiness to man.

A prosperity built on the basis of agriculture is that which is most desirable to us, because to the efforts of labor it adds to the efforts of a great proportion of soil . . .

Agriculture, manufacturer, commerce and navigation, the four pillars of our prosperity, are the most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be reasonably interposed.

Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country, and wedded to its liberty and interests, by the most lasting bonds. As long, therefore, as they can find employment in their line, I would not convert them into mariners, artisans or anything else.

Those who labor in the earth are the chosen people whose breasts He has made His peculiar deposit for substantial and genuine virtue. It is the focus in which He keeps alive that sacred fire, which otherwise might escape from the face of the Earth.

THE GROUNDBREAKING CEREMONIES FOR THE VIETNAM VETERANS MEMORIAL

Mr. WARNER. Mr. President, in 1964, thousands of America's young men and women began what would be an 8-year ordeal for our Nation. Before it was over, it would involve 2.7 million of this country's people—57,414 of whom would lose their lives. And when it ended, our citizens would be divided in their opinion and some even resentful toward those who had served our Nation on the battlefields of Vietnam.

Many years have passed since the first days of that war. Much soul searching and much introspection has been done by those who served, and by those who stayed behind.

On March 26 of this year, the lengthy healing process from that war reached a significant milestone. Vietnam veterans finally saw the beginning of this Nation's long overdue recognition and appreciation for the service and sacrifice made in a war nobody wanted and nobody wanted to remember. The ground was broken for the Vietnam Veterans Memorial—a massive granite and statuary tribute to all who fought—who lived and died.

The groundbreaking ceremony for the memorial was itself a moving tribute to those who served in Vietnam. The ceremony was also a tribute to those who have labored these many years to make the dream of recognition a reality.

The words of those who participated in the ceremony reflected an eloquence and a perspective we often attribute to another era in our Nation's history. Those words portrayed a philosophy and a demeanor not popularly associated with the Vietnam war. And, most importantly, they expressed a Nation's gratitude—and perhaps for the first time an awareness—that we are a united people who have learned the true lesson of Vietnam—victory can only be ours if we give our full support and follow those who must fight to preserve it.

Mr. President, the groundbreaking ceremony for the Vietnam Veterans Memorial in Constitution Garden—between the Washington Monument and the Lincoln Memorial—was a historic event. It was an event forever to be recorded in the annals of our land.

With a great sense of pride in those Vietnam veterans who fought for our freedom and who have labored to make the memorial possible, I now ask unanimous consent that the full transcript of the Vietnam Veterans Memorial groundbreaking ceremony be made a part of the RECORD of the Congress of the United States so that it will be available to generations of Americans.

I thank the Chair.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

VIETNAM VETERANS MEMORIAL GROUNDBREAKING CEREMONY

WELCOME BY JOHN P. WHEELER III, DIRECTOR, VVMF

To you Vietnam veterans who traveled here from your states to be with us, and to the friends and family who came to remember those who gave their lives, and a special welcome to the children who are with us this morning. This is a big day for your moms and dads. Your moms and dads have been brave and now America is saying, "Thank you."

Our Master of Ceremonies is Jan Craig Scruggs. He is the President of the Vietnam Veterans Memorial Fund. He was a soldier in the 199th Light Infantry Brigade in the Vietnam War. He was wounded in action.

JAN C. SCRUGGS, PRESIDENT, VVMF

I'd like to thank you, Jack, for that very kind introduction. And special thanks to the United States Marine Corps Band, under the direction of Captain Timothy Foley, for their very stirring introduction opening.

And let me welcome each and every one of you here today to this historic groundbreaking for the Vietnam Veterans Memorial.

Our success is owed to many who are here on the stage, and many who are seated nearby as honored guests, and others who couldn't attend today, such as Pearl Bailey, Mr. Bob Hope, Vernon Jordan, First Lady Nancy Reagan, and others who have done a great deal to help. We owe thanks to many people—just too many to mention—but, nonetheless, we of the Memorial Fund extend our thanks to all.

After graduating from high school, I was among the thousands of young people who volunteered for combat in Vietnam. By the end of my tour, half of the men in my company had been killed or wounded. Many of them gave their lives while performing incredible acts of heroism and many now are in wheelchairs or have other disabilities that they would not have had, had they not served their country.

But, upon returning home, I, like many others, found that being known as a Vietnam veteran was a very dubious distinction. And perhaps the true story of the Vietnam veteran who returned home as an amputee and who was told that it served him right for going to Vietnam expresses the psychological quagmire that Vietnam veterans have for too long endured.

The American people were divided by that war and the divisiveness was deep and bitter. But one point that all Americans can agree upon is that Vietnam veterans deserve recognition and appreciation for their sacrifices.

This Memorial will help provide that long overdue recognition, because this will be known as the Memorial built by the American people. The funds for this Memorial came from junior high schools in Illinois, from college campuses in Massachusetts, from patients in VA hospitals, from workers—members of the AFL-CIO, their locals—people throughout America took part in this effort. And I speak for all the Vietnam veterans when I say to the American people, "Thank you. Thank you for remembering us. Thank you for helping to build this Memorial."

Because of the overwhelming support that we have received from the people and from organizations like the American Legion and the Veterans of Foreign Wars, this grand Memorial is being built. And it will be a beautiful and fitting tribute.

From the point just before me, two walls will extend nearly 250 feet each—one towards the Lincoln Memorial, the other towards the Washington Monument. Before the walls will stand a statue of an American serviceman. And over the Memorial will fly proudly the flag of our great nation.

Vietnam veterans have waited a long time to receive the recognition that this Memorial will provide and we have worked long and hard to get this Memorial finished. But today, we see our dream becoming a reality. So let this Memorial recognize the Vietnam veteran and let this Memorial begin the healing process and forever stand as a symbol of national unity.

Thank you.

TRANSCRIPT OF JACK W. FLYNT, NATIONAL COMMANDER, AMERICAN LEGION

On a battlefield far from here, in a time now a decade or more ago, a young American died. He was one American and he was every American who ever gave his life in the service of his country. He died, he thought, alone. But a comrade held him close to comfort his last moments and to vow to see him home. Today, that vow has been kept.

We don't know that young American's name for sure. But we do know who he was. He was our son, our brother, our father, our friend. He was a Vietnam veteran. And one day soon his name will be engraved in granite on this site.

To him, and to hundreds of thousands of other young Americans like him—those who died and those who lived—the nation finally pays tribute.

The courage and valor with which American Vietnam veterans fought the war, the suffering and the loneliness they bore when they returned home, and the furious battle they waged to see this Memorial built, are finally at an end.

The frustration and confusion of the American people, long willing but unable to express their gratitude and appreciation to a generation of unselfish patriots, is finally at an end.

And the divisiveness and discord that marked the Vietnam war and must threaten this very Memorial itself, is no more. America's Vietnam veterans have accomplished that. We, of the American Legion, are proud to have had the opportunity to participate in this great undertaking and we look with immense pride on the honor Vietnam veterans have bestowed on themselves by honoring their vow to bring their comrades home.

By their accomplishments, they have assured that the fate of the ancient Hebrews, described in the apocryphal book, Ecclesiastes, Chapter 44, Verse 9, will not befall their departed comrades. Quote—

"And some there be will have no memorial, who are perished as though they had never been and are become as though they had never been born and their children after them."

That is the Vietnam veterans' greatest victory.

Thank you.

TRANSCRIPT OF COOPER T. HOLT, EXECUTIVE DIRECTOR, VETERANS OF FOREIGN WARS

Thank you very much, national sponsoring committee, directors and staff of the Vietnam Veterans Memorial Fund, distinguished guests, fellow veterans, ladies and gentlemen.

First of all, I wish to express the regret that our National Commander was unable to be here this morning. However, he has sent us his official representatives: our National Senior Vice Commander in Chief, Bob Curio from Arizona, and our National Junior Vice Commander in Chief, Cliff Olson from the great state of Massachusetts.

My friends, nearly 18 years ago, Dr. Martin Luther King, Jr. spoke to thousands of his fellow citizens from the nearby steps of the Lincoln Memorial. During that famous speech, you will recall, Dr. King every so often would pause and then intone, "I have a dream." His dream was for the full freedom of American black citizens. Dr. King's address is now a moving part of our common heritage.

Jan Scruggs, also my friends, had a dream. Jan, a wounded infantry veteran of the Vietnam war, sought to create an accord out of our bitterest military experience since the Civil War. As does the Veterans of Foreign Wars of the United States, Jan Scruggs knows the difference between hating the war yet honoring the warrior. He has been the catalyst and has made happen a Memorial to 2.7 million Americans who fought in Vietnam that will serve to unify and not further divide us.

That we meet here today, ladies and gentlemen at all, is a near miracle. But Jan made his impossible dream a living reality.

And, speaking for the Veterans of Foreign Wars of the United States, I am proud to know that our Posts and our Auxiliaries have contributed to date a quarter of a million dollars to the Memorial Fund. These are dollars already contributed, with more to come, not mere statement of future intent. And I'm also happy to report to you that, in 1979, the first large contribution to Jan Scruggs and this Memorial was from the Veterans of Foreign Wars. Among the nearly two million members of the VFW, we number well over one half million veterans of the Vietnam war. And today I have these veterans, my newest comrades, very much in mind on this day, which is their day.

Their courage and their dedication was so magnificant that mere pity, my friends, would be an insult. In honoring the brave and the good Americans who fought in Vietnam, we honor ourselves.

Jan, the Veterans of Foreign Wars of the United States salute you and all who made this impossible day come true.

Thank you.

TRANSCRIPT OF HON. JOHN W. WARNER, UNITED STATES SENATOR

I stand here this morning on this hallowed ground, not as a U.S. Senator, not as a former Secretary of Navy, but as a Private in the rear ranks of the band of courageous men led by Jan Scruggs.

I'm reminded of the immortal words of Winston Churchill when he said, "Never have so many owed so much to so few." And, indeed, those words are owing to Jan Scruggs and his group who brought this Memorial on this hallowed ground.

Indeed it is hallowed ground, because it will be embraced forever by George Washington to the left, our first President, and Abraham Lincoln on our right, who taught us the meaning of freedom and equal justice for all.

And soon, on these grounds, will also be built a memorial to the 56 signers of the Declaration of Independence, who had made sacrifices to bring forth this land in which we live today—sacrifices no less, no greater, than those made by the veterans of Vietnam.

I pray God that this nation never again must send forth men or women to make such sacrifices in the cause of freedom. But, if this nation does respond to that call, then let us remember the lesson of Vietnam. For victory can only be ours if we support and follow those who must fight to preserve it.

Thank you.

TRANSCRIPT OF HON. CHARLES McC. MATHIAS, JR., UNITED STATES SENATOR

I have never been more convinced than I am at this moment that this is the right thing to do, this is the right time to do it, this is the right place and this is the right way to do it.

When Jan Scruggs, as he said, first came to see me in 1979, I thought he had a good idea. And, when John Warner and I introduced the bill which ultimately was co-sponsored by every single member of the United States Senate, an almost unique occurrence, I thought we were on the proper course.

But, as I meet with all of you here today and look around, I'm struck by the rightness of what we are doing.

Because over there, on the horizon to the east, is the dome of the Capitol, the symbolism of the rule of law that guarantees the freedom and liberty of the men and women of America, the freedom and liberty that we know we must defend.

And just a little this side of the Capitol, the towers of the Smithsonian that represent civilization, the civilization that we want to preserve.

And that great obelisk, dedicated to the first patriot in America, which itself says, "patriotism."

And then this wonderful grass, touched by the green of springtime, the very soil of the America that we love and the America for which the Vietnam veterans fought and so many died.

And then here, close at hand, brooding, serene, the Lincoln Memorial, the very temple of reconciliation.

So, within our view, are the real treasures of America, the treasures of America that we spread out in homage to the veterans of Vietnam. And we dedicate this ground to them and to the principles for which they served and for which they died.

TRANSCRIPT OF HON. CHARLES S. ROBB, GOVERNOR OF THE COMMONWEALTH OF VIRGINIA

Thank you, Jan, distinguished guests, fellow Vietnam veterans, ladies and gentlemen.

I was one of the lucky young men that served in Vietnam. I served a thirteen month tour and I returned home safely to an understanding and loving family. That was not the case of all those who served in Vietnam.

Indeed, in the Company that you just referred to, that it was my privilege to command, over a hundred of those young men received the Purple Heart for wounds incurred in battle, and some of those scars will be with them for the rest of their lives. And some 23 young men are going to be memorialized in this particular Memorial. There are at least two cases where the men literally died in my arms, and I thought about those men for a long period of time. It was always difficult, when you returned to a combat base, to try to respond to the questions from their parents and loved ones, "How and Why."

I wasn't always able to answer the "why" and this Memorial doesn't attempt to answer the question of "why," but it does say that we cared and that we remembered. And that's terribly important to all of us and, especially, to the families of those men and women who gave their lives in Vietnam.

To all of you who have made this possible, I say thank you.

TRANSCRIPT OF BRIG. GEN. GEORGE B. PRICE UNITED STATES ARMY, RETIRED

Thank you, Jan. Words can hardly express my gratitude for being invited to participate in such a historic occasion. And I would like to take the liberty of reciting, if you will, George Skypeck's words from Vietnam that says, "I was that which others did not want to be. I went where others feared to go and did what others failed to do. I asked nothing from those who gave nothing and reluctantly accepted the thought of eternal loneliness, should I fail. I have seen the face of terror, felt the sting cold of fear and enjoyed the sweet moments of love. I have cried, pained and hoped. But, most of all, I have lived times others would say were best forgotten. At least some day, I will be able to say that I was proud of what I was, an American soldier serving his country."

It is with that thought in mind that I believe we must recognize that, to our left, is an era, that the distinguished President Washington felt that we had a nation, under God, worth bringing together to be ruled by the people.

That concept was challenged during Mr. Lincoln's era and it was during that period that one nation, under God, with liberty and justice for all, took on new meaning.

And that concept was challenged again during the Vietnam era, where some elected to question whether or not our country was, in fact, the best experiment in democracy that the world has ever known. And we survived that.

And it was during a period when the people said the youngsters did not care, that they stepped forward in great numbers and served and some lost their life and to them we are eternally grateful.

And, as we stand here today there are some distinguished Vietnam veterans still manning the guns that guard our shores and still serving with distinction. And for that, we should be grateful.

But I can say to you that, as I stand here this is a coming together of all of us who believe in what American is all about and who believe that we can still improve on this experiment of democracy and follow the lead by Jan Scruggs and those of the Vietnam Veterans Memorial, by saying let's put aside those things that kept us apart and bring us together as one country, under God, with liberty and justice for all.

We still have a lot of work to do, but thank God for people like Jan Scruggs.

TRANSCRIPT OF HON. CHARLES T. HAGEL, DEPUTY ADMINISTRATOR OF VETERANS AFFAIRS, VETERANS ADMINISTRATION

Thank you, Jan Scruggs, for your magnificent work, and for all of you who've had a role in making this groundbreaking in the ultimate success, the Monument dedication, hopefully, later this year to be a reality.

This is a particularly poignant week for me. I served in the Ninth Division at the Mekong Delta, with my brother Tom, for one year in 1968. It was this week, fourteen years ago, that my brother Tom and I were crossing a river on a patrol when the first squad of our Company tripped Claymore mine trip wires and the first squad, ahead of my brother and I, were killed. The names of those squad members will be part of the 57,000 names remembered and inscribed in this Memorial. And I think it's essential that we also remember the 2,500 MIAs that are all part of this Memorial and this recognition.

We know, from 5,000 years of recorded history, that Memorials are not built for the past but because of the past. Memorials are built for the future.

We also must know, and understand, that there is no glory in war, only suffering. That's why we recognize those who have gone before us and that's why we continually try and understand and learn, from wars and from that suffering that has been part of mankind since the beginning.

However, a nation like America, a nation that is the leader of the free world, has certain responsibilities. We must not allow a tide of timidity to overcome our future dealings in this world as a result of a debatable involvement in a faraway land in Vietnam.

The historians will debate our involvement. Let the historians debate that. But let us, as Americans, those who have appreciated who have gone before us, who we honor in this Memorial and all of those two and a half million men and women who served in Vietnam very honorably, let us remember that we still have the future. We still have our children and their children and we must make certain that the United States remains the leader of the free world. And where there is a sliver of hope of liberty in a land far away, let us not be intimidated to consider our resources and what we can do to maintain that liberty and bring freedom to others.

George Bernard Shaw once said that "Liberty means responsibility." That's why most men dread it. It's a heavy burden to carry. But it's a burden that we, as free people, have selected to carry. And we have an obligation, especially to those who are honored by this Memorial, to carry on that tradition.

Teddy Roosevelt said that, "For an individual and a nation, there is but one indispensable requisite and that's character." There was great character among our American Vietnam veterans. There is great character in this land and everywhere today, thanks to Jan Scruggs and Senator Warner and Senator Mathias and others, there is great character.

I appreciate very much an opportunity to play a small role in this very special day and thank you for coming.

TRANSCRIPT OF CHAPLAIN MAX D. SULLIVAN, UNITED STATES ARMY

As we stand here to witness to Americans of this day and to those to come, we remember another day, another generation, young warriors sitting beside gravel roads, in foxholes, on flight decks and in wardrooms—vulnerable, fearful, yet casual, the outrageous fun, popcorn and beer and American intimacy. As we stand here to set apart this place—this earth will remain another place, another earth, of jungle, of mountains, of rice paddies, and the calm, beautiful seas.

May this ground be a holy place of tribute for all those who served, who were obedient to the call of our nation, for those men and women who sacrificed at home, for those warriors who served and who came back, for those yet not home, for those for whom we await an accounting and, above all, for those whose names will be engraved in stone.

Oh Lord, our God, may this ground be a holy place of tribute to those obedient sons and daughters who forever lost their youth.

May this ground be a holy place of healing for the conflicting emotions of that terrible, divisive war, conflicting feelings of laughter and the tears, the fun and the fears, the caring, the cruelty, the loving and the hating, the guilt and, oh yes, the pride.

Oh Lord, our God, make this a holy place of healing. May this ground be a holy place of learning for those who will pause here to reflect on ideals worthy of sacrifice, on patriotism worthy of tribute, on the magnificent obedience of our young citizens.

Oh Lord, our God, make this a holy place of learning.

As we turn this earth, let this become a holy place, a place of tribute, a place of healing, a place of learning. Oh Lord God, let it be so.

Amen.

TRANSCRIPT OF JAN C. SCRUGGS, PRESIDENT, VVMF

These words are the true story of a young Marine killed in Vietnam, written by Philip Caputo and from his book, "A Rumor of War." And I quote his eloquent words that he used to remember his friend.

He writes, "We never left our wounded on the battlefield. We brought them off, out of danger and into safety, even if we had to risk our own lives to do it. That was one of the standards we were expected to uphold. I knew I could not have done what Levy had done. Pulling himself up on his wounded legs, he had tried to save the corpsman, not knowing that the man was beyond saving. And he had probably done it as he had everything else—naturally and because he thought it was the right thing to do.

"So much was lost with you, so much talent and intelligence and decency. You were the first from our class of 1964 to die. There were others, but you were the first and more: you embodied the best that was in us. You were a part of us, and a part of us died with you, the small part that was still young, that had not yet grown cynical, grown bitter and old with death. Your courage was an example to us, and whatever the rights or wrongs of the war, nothing can diminish the rightness of what you tried to do. Yours was the greater love. You died for the man you tried to save. You were faithful. Your country is not. As I write this, eleven years after your death, the country for which you died wishes to forget the war in which you died. Its very name is a curse. There are no monuments to its heroes, no statues in small-town squares, no plaques, nor public wreaths, nor memorials. For plaques and wreaths and memorials are reminders, and they would make it harder for your country to forget the Vietnam war."

Well, thank God that America has not forgotten the Vietnam war nor have they forgotten the Vietnam veteran.

I would now like to ask the press people to please stand behind the line of the shovels instead of in front of them. And I would now like to ask the groundbreakers to get into position, assemble, take your shovels.

SANDIE FAURIOL. Ladies and gentlemen, pick up your shovels. Put your blades to the earth. Okay, break ground!

Following is a list of those participating in the groundbreaking:

Marvin Allen, Texas.
Steve Anderson, Maryland.
Robert L. Ashworth, Washington.
Frank A. Athanason, Military Order of the Purple Heart of the USA.
Congressman Don Bailey, Pennsylvania.
BGen. George L. Bartlett, USMC, Ret, Marine Corps Association.
Michael Beasley, Virginia.
Chaplain John D. Benson, Col., USA, Ret, Oklahoma.
Larry Besson, Illinois.
Dwayne Brokenbek, Govt. Veterans Outreach Asst. Center.
Congressman David E. Bonior, Michigan.
Clint Brown, Texas.
Ambassador Ellsworth Bunker, Idaho.
Thomas Burch, Georgia.
Chaplain Wm. E. Calbert, LtCol, USA Ret, Military Chaplains Association.
Jeff Carey, Maryland.
Arthur Cherry, D.C.
Col. Francis S. Conaty, Jr., Virginia.
Bob Conley, Arizona.
Milton Copulos, Florida.
David Cox, Illinois.
Robert C. Cummings, Virginia.
Emogene Cupp, Kentucky.
Jim Davis, Pennsylvania.
General Michael S. Davison, USA Ret, California.
David DeChant, Kansas.
Michael Dodge, Vermont.
Robert W. Doubek, Illinois.
Sterling Doughty, Maine.
Ronald Drach, Disabled American Veterans.
Quinton Evans, D.C.
John Fales, Jr., Blinded Veterans Association.
Paul Fanton, Maryland.
Jack W. Flynt, The American Legion.
Joe Frank, Jr., Missouri.
Robert H. Frank, Nevada.
Ruth Frye, Gold Star Mothers.
Col. John Greenwood, USMC, Oregon.
Ronald F. Gibbs, New Mexico.
S/Sgt. D. A. Gross, USMC, California.
M/Sgt. Alfred P. Guest, USAF, South Carolina.
Charles T. Hagel, Veterans Administration.
Doug Hartman, Hawaii.
Thomas J. Haynes, Indiana.
Doug Hartman, Hawaii
BGen. James A. Herbert, USA, Ret, U.S.O.
Cooper T. Holt, Veterans of Foreign Wars of the U.S.
Col. Earl P. Hopper, USA, Ret, National League of Families.
Phillip G. Hough, Virginia.

Congressman Duncan Hunter, California.
Charles R. Jackson, Non Commissioned Officers Association.
G. William Jayne, Alaska.
George Kaye, Fleet Reserve Association.
Capt. Cy L. Kammeier, USMC, Ret, Marine Corps League.
Maj. Robert M. Kimmitt, USA, Montana.
Fred King, Arkansas.
Thomas C. Kouyeas, D.C.
John J. Maddux, Jr., Tennessee.
Ed Manear, U.S. Maritime Commission.
LtGen. Leroy J. Manor, The Retired Officers Association.
Gordon Mansfield, Paralyzed Veterans of America.
Senator Charles McC. Mathias, Jr., Maryland.
William Marr, Virginia.
George W. Mayor, Jr., Wisconsin.
Grace Maria Mcalister, Wyoming.
Carl McCardin, New York.
Sgt. Maj. George F. Meyer, First Marine Division Association.
Charlotte Miller, Maryland.
YN CM John C. Mitchell, USCG, Florida.
John C. Morrison, Utah.
Jimmy Mosconis, Florida.
Fred Mullen, Maryland.
Jock F. Nash, Ohio.
Maj. John Parsels, USA, Ret., Georgia.
Thomas W. Pauken, ACTION.
Dennis Peaslee, Connecticut.
Edward T. Pendarvis, South Carolina.
Al Poteet, Virginia.
Senator Larry Pressler, South Dakota.
BGen. George B. Price, USA, Ret., Mississippi.
Bud Randall, Pennsylvania.
M/Sgt. Charles A. Reider, Air Force Sergeants Association.
Command Mst. Chief Donald F. Rhamy, USN, Texas.
E. Philip Riggin, Michigan.
Scott Robart, New Hampshire.
Governor Charles S. Robb, Virginia.
Morgan Ruph, AMVETS.
Col. Donald E. Schaet, USMC, Ret., New Jersey.
Jan C. Scruggs, Vietnam Veterans Memorial Fund.
Dyke E. Shannon, Florida.
Shaun M. Sheehan, North Dakota.
Austin Smith, Maryland.
Charles "Pat" Smith, Colorado.
Spurgeon R. Somers, Maine.
Robert W. Spanogle, Minnesota.
Dewey C. Spencer, Arkansas.
Brian M. Stanley, Massachusetts.
Harris B. Stone, D.C.
Chaplain Max D. Sullivan, USA, Illinois.
Tom Suproc, Rhode Island.
John Sutter, National Assn. of Concerned Veterans.
BGen. Richard Sweet, Association of the U.S. Army.
Ted Sypko, New Jersey.
Brian Thacker, Congressional Medal of Honor Society.
Paul Thayer, The LTV Corp., VVMF Corp. Advisory Board.
Bruce Thiesen, California.
MajGen. Charles J. Timmes, USA Ret., Virginia.
SFC. David L. Toland, USA, Nebraska.
Elvin C. Toppin, North Carolina.
Mark Trock, Illinois.
Sumner A. Vale, Maryland.
Bob Valentine, Iowa.
Lynda Van de Vanter, Vietnam Veterans of America.
Willie Walker, Maryland.
Jere W. Wallace, Maine.
Senator John W. Warner, Virginia.
John P. Wheeler III, Vietnam Veterans Leadership Program.
Regina Wilk, New York.
June A. Willenz, American Veterans Committee.
Peter Wilson, Massachusetts.
John O. Woods, Louisiana.
Jerry Yates, V.F.W. Post 1830, VA Central Office.
Joseph C. Zengerle III, Delaware.
Robert W. Zweiman, Jewish War Veterans of the USA.

MEDICARE COVERAGE FOR HOSPICE PATIENTS

Mr. WARNER. Mr. President, I am pleased today to announce my cosponsorship of S. 1958, legislation which extends medicare coverage to hospice patients.

With the origination of hospices in the United Kingdom, hospices in the United States have quickly gained in popularity as an alternative method of care to hospitals. Since the opening of the first hospice, 8 years ago, there are now almost 400 hospices throughout the Nation, more than 10 of which are in the Commonwealth of Virginia.

Hospice care is a comprehensive inpatient, home and bereavement care program. While hospice care is not appropriate for all of the 250,000 medicare-eligible Americans who will die of terminal diseases in 1982, clearly hospices offer a cost-effective, humanitarian alternative to that of hospitalization.

This bill affords the opportunity to all those who have less than 6 months to live, the possibilities of living out their lives in an environment most closely assimilated to that to their home—while at the same time providing the same medical conveniences that hospitals do.

Despite broad public and private support for medicare reimbursement for hospice care, current law does not provide coverage of this benefit. S. 1958 will amend part A, title 18 of the Social Security Act to allow medicare eligible patients to use their benefits to obtain services from hospice programs of care.

Mr. President, I am pleased to cosponsor this worthy legislation. S. 1958 gives the medicare-eligible patient a choice which virtually every study on the topic shows is no more expensive, and often less costly, than the present alternatives available to them.

I thank the Chair and I now yield the floor to my colleague from Nebraska.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized. He will have to ask unanimous consent——

Mr. EXON. Mr. President, I ask unanimous consent to proceed for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR EXON RECEIVES A LETTER FROM THE REPUBLICAN PRESIDENTIAL TASK FORCE

Mr. EXON. Mr. President, I received this most impressive letter from the President, a letter that I hold in my hand, and I ask unanimous consent that it be printed, along with the enclosures, in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPUBLICAN PRESIDENTIAL TASK FORCE,
March 24, 1982.

J. JAMES EXON,
Governor of the State of Nebraska, Lincoln, Nebr.

DEAR FRIEND: As your President, I am calling upon you to make a most unusual sacrifice.

Not the kind of sacrifice that a national emergency might require of you or your children or your grandchildren to protect our shores from invasion.

I pray that will never happen—but today I still must ask you to volunteer.

And I must ask you to sacrifice for your country—in order to keep our Republican majority status in the Senate.

For this reason, I am personally inviting you to become a member of the "Republican Presidential Task Force."

And you are urgently needed. Here's why:

Right now we Republicans only have a slim 4 vote majority lead in the Senate. That's all!

It took us 26 long years to gain 16 Senators to get that narrow majority. But the Democrats need only gain four seats in the November '82 elections to win it back from us!

This means that all the programs I am trying to get through on your behalf may be in jeopardy if we don't act fast.

Believe me, I'm not asking everyone to join this club—only proud, flag waving Americans like you who I know are willing to sacrifice to keep our nation strong.

I am working with the National Republican Senatorial Committee . . . our Party's only official committee that concentrates exclusively on the United States Senate . . . in an effort to build a Task Force of grassroots Republicans . . . who are willing to join together to build a war chest to help us keep a Republican majority in the Senate.

Remember—November 2, 1982 is just around the corner!

And the "Republican Presidential Task Force" is a must for every Republican who is serious about keeping a Republican majority in the Senate.

I am calling upon you to become a charter member of the Task Force.

In honor of this occasion, I have ordered a special Medal of Merit to be struck.

And Senator Bob Packwood, Chairman of the Task Force, will present you with your Medal of Merit.

I think it's beautiful and impressive . . . though a bit large for informal wear, so there's a lapel pin (an exact reproduction of the Medal of Merit) to be worn proudly everyday.

Also, your name will be entered in my "Honor Roll" book and remain with my permanent papers.

I am placing a copy of this Honor Roll on file so that everyone can see your name on this vital document, along with the other true Republicans who are making this country strong again.

Equally exciting, I've commissioned Senator Packwood to dedicate a full size American flag at a special ceremony in the Rotunda of our Nation's Capitol Building.

And I've asked Bob to send this personal memento to you so that you can proudly fly it as I will on every day that's important to America.

And as a member of the Task Force, Senator Packwood will also be sending you a Task Force Membership Card with a toll-free, unlisted, members only Washington hot-line number on the back.

It's not for constituent services . . . there are regular channels for that.

But Task Force members can call or write any day to get an accurate up-to-date report on issues that are being discussed in the Senate.

You will also be receiving a special *insider's report* called "The Force" so you can know exactly what is happening on Capitol Hill and across the country.

And Bob is planning on writing you special *personal* letters to keep you informed of any issues that he feels the Task Force should be taking immediate action on.

I believe that the "Republican Presidential Task Force" will be one of the strongest action groups in America.

That's why Bob Packwood and I decided to launch the "Republican Presidential Task Force." We must maintain our Republican majority status in the Senate!

And that's why I'm asking you to become a Task Force member and send $120 a year (i.e., $10 a month) and more when possible. I realize this is a sacrifice—but sacrifice is what made this country great.

I cannot carry this burden alone. I am only one man. It will be your regular monthly contribution that will carry us to victory.

So I urge you to check the "YES" box on the enclosed Acceptance Form and mail it with your check today.

Remember, this is an *exclusive club*—and every member is dedicated to keeping a Republican majority in the Senate. And the Democrats are coming after us in 1982. They want to defeat our 12 Republican incumbents up for re-election.

So tough days are ahead . . . days that call for sacrifice!

That's why I'm hoping you'll accept my personal invitation now to join this Task Force by sending your contribution of $120 (or $10 for the first month) without delay.

Sincerely,

RONALD REAGAN.

P.S.—If you truly share my vision of America then I urge you to join the "Republican Presidential Task Force."

Thanks so much for reading my letter, and, please, I need your answer within 10 days.

RONALD REAGAN.

REPUBLICAN PRESIDENTIAL TASK FORCE ACCEPTANCE CERTIFICATE

DEAR PRESIDENT REAGAN:

☐ YES, I accept your *personal* invitation to join the Republican Presidential Task Force.

I'm excited that together we're seizing this once in a lifetime opportunity to maintain republican control of the U.S. Senate.

☐ I pledge $120.00 for Charter Membership.

☐ Enclosed is my $120.00 payment in full.

☐ Enclosed is my first payment of $10.00. And I promise to pay the balance over the next eleven months.

I understand my name will be added to your special "Honor Roll." And that this historic document will be kept forever with your permanent papers.

Signature

J. JAMES EXON,
Governor of the State of Nebraska.

REPUBLICAN PRESIDENTIAL TASK FORCE BENEFITS OF MEMBERSHIP

1. Medal of Merit: President Reagan's personally commissioned Medal of Merit. The golden Medal of Merit is awarded only to Presidential Task Force members. Its rarity and meaning will increase with the years.

Your personal Medal of Merit includes a handsome presentation case. Displayed in home or office, the President's Medal of Merit is a beautiful and positive way to show you're working to make America better.

2. Lapel Pin: The Medal of Merit Lapel Pin. A beautifully detailed reproduction of the Medal of Merit itself.

Wear this golden pin proudly with suits, dresses or even in shirtsleeves everyday to signal your special relationship with President Reagan.

3. Ceremonial Flag: A unique, full-size American Flag. Dedicated at the President's direction by a special ceremony in the Rotunda of our Nation's Capitol Building.

Truly a collector's piece you will fly with pride on every day that's important to America.

4. Card: Your embossed Presidential Task Force Membership Card.

The card reveals your toll-free, unlisted, members only Washington hot-line telephone number. Your private way to learn of important Senate developments.

Also revealed, our members only Washington mailing address. Your super-fast way to contact President Reagan and every Republican in the United States Senate.

And when you visit Washington, your personal membership identification number will allow you to call ahead on the hot-line for your special United States Senate Gallery Pass. It's all part of membership in President Reagan's Task Force.

5. Honor Roll: Your name will be inscribed on the President's Honor Roll of Americans and be kept forever with Ronald Reagan's permanent Presidential Papers.

Perhaps someday your grandchildren or great-grandchildren will see you name linked historically with President Reagan himself on the unprecedented part of America's future heritage.

6. The Force: You'll receive "The Force": a special insider's briefing on the real stories behind what's happening at the White House, on Capitol Hill and around the world.

"The Force" goes only to Presidential Task Force members and will help you tell friends and neighbors the truth about major events.

7. Action-Alert: Special "Action-Alert" letters from Senator Bob Packwood and other national leaders. These personal letters will concentrate on vital matters the President and our Senators believe the Presidential Task Force should take immediate action on.

They're a real chance for teamwork and effective action to make America better.

Mr. EXON. Mr. President, although the letter and attached materials have just been ordered printed, I wish to make some brief quotes from that letter. The letter is addressed to me.

It starts out:

DEAR FRIEND: As your President, I am calling upon you to make a most unusual sacrifice.

Not the kind of sacrifice that a national emergency might require of you or your children or your grandchildren to protect our shores from invasion.

I pray that will never happen—but today I still must ask you to volunteer.

And I must ask you to sacrifice for your country—in order to keep our Republican majority status in the Senate.

For this reason, I am personally inviting you to become a member of the "Republican Presidential Task Force."

Believe me, I'm not asking everyone to join this club—only proud, flag waving Americans like you who I know are willing to sacrifice to keep our nation strong.

I am calling upon you to become a charter member of the Task Force.

In honor of this occasion, I have ordered a special Medal of Merit to be struck.

And Senator Bob Packwood, Chairman of the Task Force, will present you with your Medal of Merit.

I think it's beautiful and impressive . . . though a bit large for informal wear, so there's a lapel pin (an exact reproduction of the Medal of Merit) to be worn proudly everyday.

Also, your name will be entered in my "Honor Roll" book and remain with my permanent papers.

I am placing a copy of this Honor Roll on file so that everyone can see your name on this vital document, along with the other true Republicans who are making this country strong again.

Equally exciting, I've commissioned Senator Packwood to dedicate a full size American flag at a special ceremony in the Rotunda of our Nation's Capitol Building.

And I've asked Bob to send this personal memento to you so that you can proudly fly it as I will on every day that's important to America.

And as a member of the Task Force, Senator Packwood will also be sending you a Task Force Membership Card with a toll-free, unlisted, members only Washington hot-line number on the back.

I cannot carry this burden alone. I am only one man. It will be your regular monthly contribution that will carry us to victory.

Sincerely,

RONALD REAGAN.

Attached to that is an acceptance certificate and some pictures of the Republican task force benefits of membership and what you will get.

Mr. President, I unselfishly bring this letter to the attention of my colleagues so that they can share my enthusiasm and rejoice with me in my elation in this informative and unique opportunity presented personally to me by the President of the United States. I say personally because that word is employed several times in this communication.

At first I believed this to be some sort of a practical joke since the postmark was April Fool's Day. But then when I got into the body of the letter I thought the President was serious since he took the time from his very busy schedule to write, and I quote, "a proud flag-waving American like me." Certainly the President of the United States, being a prudent man, would carefully think out his expressions before signing a personal letter of such magnitude to me.

Mr. President, what grabbed me the most was President Reagan's early reference to, and I quote, "possible sacrifices" and "volunteerism" on the part of my family, not the kind though, according to the President, and I quote, "of a sacrifice that a national emergency might require of you or your children or your grandchildren to protect our shores from invasion."

I was indeed reassured when our leader "great communicated" to me immediately thereafter in the letter "I pray that will never happen."

But then while the President may not have known, he actually was not asking too much in his first scenario. The little woman and I just love rounding up the three children and the five grandchildren, aged 11 months through 11 years, for a frolicking day at a secluded beach reconnoitering in defensive guerrilla tactics. We have discovered that sand castles are superior to foxholes to escape the initial enemy beach bombardment. When we get the President's ceremonial flag, medal of merit, lapel pin, embossed card and the security of the honor roll, the Exon platoon will be invincible, come hell or high water.

With the promised inside literature like "The Force," "Action Alert," and BOB PACKWOOD's personal letters, we will be well fortified with reading material during the battle lulls. If we do get into trouble, there is always the toll-free hotline to the President and the Senate leadership.

The other good news is that the President and the junior Senator from Oregon have made up and that the President has commissioned him. During the AWACS controversy the President indicated that he never wanted BOB in his foxhole again ever. Last month the Senator said the President did not seem to know what he was talking about.

Mr. President, the more I consider the contradictions in this personal letter from President Reagan the more grotesque and absurd it becomes. Things are going so well on the domestic and international scenes that this obviously is no time for rank and file partisanship and overstatement.

This leads me to the conclusion that the letter was a hilarious April Fool's joke after all and should be so considered by any American so lucky to receive it.

As the President said, "Let's pray on that."

Mr. President, I yield the floor.

TELEVISION AND RADIO COVERAGE OF SENATE PROCEEDINGS

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 20) providing for television and radio coverage of proceedings of the Senate.

The Senate resumed consideration of the resolution.

AMENDMENT NO. 1349 TO AMENDMENT NO. 1348

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the Chair.

Mr. President, when we adjourned prior to the Easter recess the pending business before the Senate was Senate Resolution 20, and the pending business under that resolution is my amendment to reaffirm the 1962 joint resolution on Cuba.

Since that time there has been some discussion of this both in and out of the administration, and Senator PERCY and others have proposed a motion to table this amendment.

I just want to bring my colleagues up to date on where we are and what the pending business is and what the purpose of my amendment is. First, I would like to quote from Senator PERCY's "Dear Colleague" letter, because I think it does make a very significant point in support of my amendment. Senator PERCY said:

> The purposes of the Symms amendment are ones that we can all support: resistance to Cuban aggression and subversion in the hemisphere, prevention of Soviet bases in Cuba, and support for self-determination of the Cuban people.

Now, let me restate the several important purposes of my amendment which, Mr. President, incidentally, has 21 Senate cosponsors, and on the resolution as it was originally introduced as Senate Joint Resolution 158.

First, and most significantly, this amendment reaffirms the law of the land on American policy toward Cuba as embodied in Senate Joint Resolution 230, which was passed overwhelmingly by a bipartisan majority of both Houses in September 1962. Second, it reaffirms the Monroe Doctrine first announced in 1823 and the Rio Treaty of 1947. Third, my amendment has several policy thrusts. It expresses the determination of the United States to prevent, by force if necessary, the Soviet-backed Communist regime in Cuba from engaging in aggressive or subversive activities in any part of the Western Hemisphere.

It expresses the American determination to prevent the Soviets from establishing a military base in Cuba. It states American support for the freedom and self-determination of the Cuban people. The amendment is fully consistent with, and supportive of, President Reagan's Caribbean policy announced on February 24, 1982.

Mr. President, I might make the point that I did have communication from the State Department this morning. The State Department's comments on this pending business is that:

> The 1962 Cuba resolution continues to reflect U.S policy towards Cuba as it has in every administration since 1962.

Now, it is obvious that the administration is not out in front on this issue but, on the other hand, that statement is certainly reflective of State Department and administration support of the amendment.

Senator PERCY's principal argument for asking to table this amendment in his "Dear Colleague" letter, was:

> Because of the obvious national importance and diplomatic sensitivity of these issues, we think the Senate should withhold action * * * on the proposal * * * until the (Senate Foreign Relations) Committee has heard testimony and made recommendations to the Senate.

I fully agree with Senator PERCY that the amendment is of great national importance. I also agree that the Senate Foreign Relations Committee should have hearings on the amendment. That is why I have referred it to that committee twice.

On February 2, 1982, Secretary Haig promised the Senate Foreign Relations Committee that he would testify on Cuba at the earliest convenience of the committee. But the Senate Foreign Relations Committee has been unable to have those hearings or to receive the testimony. I think there may be obvious reasons that the Secretary is very busy right now. However, on five separate occasions, the committee has been unable to get the Secretary to testify.

Now, I would say, Mr. President, that I recognize that the administration has its problems and that there are a great many other things going on in the world that affect the United States foreign policy vis-a-vis our adversaries the Soviets. But I think that we should recognize that there are many circumstances that are taking place here that I believe call for some some response on the part of the Government of the United States. And that part of the Government which I have the opportunity to be part of, the U.S. Senate, is the only place that I can speak to respond to what is happening in the Caribbean Basin.

Under other circumstances, I might be inclined to wait on this issue and not have a vote. However, I think it is very obvious what is happening in the Caribbean Basin and I think it makes for a state of urgency that this body should speak, and speak very forthrightly, that we want to uphold what the current policy of the United States is. As I said, this resolution continues to reflect U.S. policy toward Cuba as it has been in every administration since 1962. That is the statement from the State Department. That is certainly my position. And I think we should vote on that and make a very clear signal about the situation in the Caribbean so that there could be no misunderstanding of where the United States stands on the issue of the Soviet-Cuban threat.

Soviet President Brezhnev has been engaging for the past month, in my opinion, in nuclear blackmail of the United States in making a threat to activate Soviet nuclear bases already in Cuba. No one has yet responded. Moreover, CIA Director Casey, Joint Chiefs of Staff Chairman General Jones, Under Secretary of Defense Fred Ikle, and even President Reagan himself, have stated publicly that the Soviets have violated the Kennedy-Khrushchev agreement of 1962, which ended the 1962 Cuban missile crisis. Thus, there is an urgent need for the Senate to vote on whether or not to stand up to Soviet nuclear blackmail, reaffirm the Monroe Doctrine, and oppose Soviet offensive military bases in Cuba.

While the Senate has been concerned with various concepts for a freeze in nuclear weapons deployment, also proposed by Brezhnev, the Soviets have been provoking another Cuban missile crisis. Defense Secretary Weinberger has stated that the United States would deal with such a Soviet strategic threat from Cuba the same way we did in 1962. This is precisely what my amendment attempts to do, and I think it is time we vote on this.

Accordingly, at some point—and I would anticipate, I say to my colleagues, at some point tomorrow, when Senator PERCY returns, if he chooses to continue to make that motion to table this amendment—I will be making a case in opposition to that tabling motion, because I think that there is a danger, if the motion were tabled, that it might be misinterpreted; that it would be a signal that we no longer have existing law and policy toward Cuba and what we do have is no longer valid.

Now, some issues have been raised and I will just speak to them briefly. One would be the question one of my colleagues asked me about here on the floor earlier. Senator MATHIAS asked about how the amendment reaffirming the 1962 Cuba resolution would impact on the War Powers Act. That question was also raised in Senator PERCY's Dear Colleague letter.

I think, Mr. President, that the 1962 Cuban resolution is not in conflict, in the first place, with the War Powers Act. More importantly, this amendment to Senate Resolution No. 20 is not a joint resolution and it will not be going to the House for action. It will in no way impact any law of the land. It will be a statement on behalf of the Senate of the United States that we want the policy of this country to be to uphold what the current law is.

I hope that we could, at some point in the coming legislative session, reaffirm our policy and I hope that the Senate Foreign Relations Committee will have hearings and a resolution with respect to American policy in the Caribbean Basin. But I think, for now, that we need to give a very strong signal to the world that we still uphold the current law as it now is.

With respect to the War Powers Act, the 1962 Cuban resolution would state, even if the President did deem it necessary for any reason, heaven forbid, that force were necessary in the Caribbean, that he would still then be under the 1973 War Powers Act. So I do not believe that we need to worry about that.

If the amendment were approved by the Senate, which I fully expect, it will not have any effect on current law, because the House will not be acting on this resolution. The Cuban resolution, however, would have a political effect because it will indicate to the Soviets and the Cubans that we are certainly in opposition to their efforts toward subversion and aggression in Latin America, and that we are not going to tolerate but will stand up to Soviet nuclear blackmail.

In addition, Mr. President, there is further reason to conclude that the 1962 Cuban resolution does not conflict with the 1973 War Powers Act. The language of the Cuban resolution is policy language. It uses the phrase "U.S. determination in regard to U.S. policy towards Cuba." It is a statement of policy, and the intent as such does not state specific authorization for the President to use force to oppose the Soviet-Cuban threat.

Therefore, were the President to decide to use military force against the Soviet-Cuban threat, after 60 days he would still be required to get specific congressional authorization under the War Powers Act, because that certainly still is law and this resolution in no way would change that particular process.

(Mr. ANDREWS assumed the chair.)

Mr. SYMMS. Mr. President, I think that we have witnessed a great many troubles in the world in the last 22 years since the takeover of Cuba by Castro and the Communist subversion of that country. There have been a great many problems, and one wonders how the world might have been had we handled things differently in the early sixties with respect to the Cuban situation.

I have personally speculated many times that had the United States in the early sixties displayed a position of much more firmness, much more resolve, the good people of Cuba would be living in a much better climate today, certainly one with much more freedom and more opportunity, and that we might not have had nearly as many problems around the world because of our failure to resolve this question of allowing Soviet backed communism in Cuba.

But that water is under the bridge. It is now 1982. We do have a problem. We are witnessing the efforts on the part of those in Cuba to introduce support and aid to a Marxist-Leninist revolution in El Salvador and other parts of Central America. I think there is no place in the world where the United States needs to focus our foreign policy with any greater intensity than right in the soft underbelly of the United States, Latin America, and Cuba. There is no place that we need to make a better effort to understand the problems of our neighbors close to us in this hemisphere and to our south. This is one of the reasons why I have chosen to bring this resolution to the Senate at the first opportunity, so that we could speak to this issue and fully air the crisis, fully air the situation, that exists.

Mr. President, I want to make a few more points in support of the amendment so that they will be available for our colleagues to see in the RECORD for the vote which I anticipate will come tomorrow.

On March 18, 1982, Defense Secretary Weinberger appeared on the NBC-TV "Today" show. Weinberger was asked what the United States would do if the Soviets had nuclear weapons in Cuba. Weinberger responded: "If there is any kind of threat of that sort, that is, Soviet Nuclear or offensive weapons in Cuba, I would assume we would deal with it in the same way we did in the 1960's." Under further questioning, Weinberger added: "I'm talking about whatever it would be necessary to do, so as not to have missiles in Cuban area . . ." Weinberger was thus stating that the United States would resist Soviet missiles or bombers in Cuba, Mr. President. My amendment is designed to reinforce just such a U.S. policy.

Now Soviet President Brezhnev himself has threatened to activate Soviet strategic nuclear offensive forces which may already be in Cuba. Brezhnev has tried to brandish these Soviet nuclear weapons in Cuba, in a blatant attempt at nuclear blackmail. Brezhnev stated on March 16, 1982, in a speech to the Congress of Soviet Trade Unions in Moscow, that:

> If the Governments of the United States and its NATO allies, in defiance of the will of the nations for peace, were actually to carry out their plan to deploy in Europe hundreds of new American missiles capable of striking targets on the territory of the Soviet Union, a different situation would arise in the world. There would arise a real additional threat to our country and its allies from the United States.

Brezhnev then added threateningly:

This would compel us to take retaliatory steps that would put the other side, including the United States itself, its own territory, in an analogous position. This should not be forgotten.

Soviet spokesmen in Pravda have Moscow reportedly made clear after Brezhnev's speech that Brezhnev was threatening to activate Soviet offensive nuclear weapons bases already in Cuba. So Brezhnev was already brandishing Soviet nuclear weapons in Cuba and engaging in a policy of nuclear blackmail much like Nikita Khrushchev so unsuccessfully attempted back in 1962.

Mr. President, we should bear in mind that the Soviet diplomat Vasily V. Kuznetsov, now Deputy Foreign Minister and Politbureau member, stated back in November 1962 to President Kennedy's special representative at the United Nations, that never again would the Soviets back down to U.S. power in a crisis as they were forced to do in Cuba in October 1962. Mr. Kuznetsov in fact was promising 20 years ago to stage another Cuban missile crisis, only the second time around the Soviets would turn the tables and try to force the United States to back down. It could be a Cuban missile crisis in reverse. This is in fact what is occurring right now, in 1982, in Cuba. The Soviets are openly violating the Kennedy-Khrushchev agreement of October 1962 by keeping strategic offensive nuclear bases in Cuba.

What is the evidence of Soviet violation of the Kennedy-Khrushchev agreement, Mr. President? Let me summarize it once again in the following 11 points:

First. The Soviet strategic submarine base built at Cienfuegos, complete with a new nuclear warhead handling facility, new piers, and reportedly even having new submarine pens being constructed.

Second. The many visits during the 1970's to the Cienfuegos strategic submarine base of Soviet strategic offensive Golf and Echo class submarines, carrying long-range strategic offensive missiles equipped with nuclear warheads.

Third. The Soviet TU-95 Bear heavy intercontinental bombers, capable of carrying nuclear bombs or nuclear air-to-surface missiles, which have been regularly flying to Cuba in recent years. There are reportedly nine Cuban airfields capable of handling TU-95 Bears.

Fourth. The 40 Soviet nuclear delivery capable MIG-23/27 fighter-bombers deployed in Cuba.

Fifth. The several nuclear-missile-equipped Soviet naval task force visits to Cuba in 1981, which cruised around the periphery of the Caribbean, directly threatening vital Venuzeulan, Mexican, and American oilfields.

Sixth. The Soviet combat brigade in Cuba, equipped with tanks, armored personnel carriers, long-range artillery, and supported by long-range air transport capabilities.

Seventh. The 66,000 tons of Soviet military equipment shipped to Cuba during 1981, three times more than in 1962.

Eighth. The long-range Soviet Shaddock-type naval and land-based, mobile, nuclear-warhead equipped cruise missiles seen paraded in Havana in 1964, 1965, and 1966. These missiles have a range of 1,550 nautical miles, which is even greater than the 1,200-mile range of the Soviet SS-4 MRBM's supposedly removed from Cuba in 1962.

Mr. President, I have a picture of these Soviet Shaddock-type long-range cruise missiles in the Chamber for any Members who will be interested in looking at the pictures of the Soviet nuclear missiles on display in Cuba.

Ninth. The fact that 4 of the 42 Soviet SS-4 MRBM's were never confirmed by U.S. aerial reconnaissance photographs as having been removed from Cuba in 1962, and may have remained in some of the many caves of Cuba.

Tenth. The fact that Soviet Frog strategic offensive missiles carrying nuclear warheads with a range of about 37 miles were paraded in Havana in 1965.

Eleventh. The fact that the number of Soviet Migs and tanks in Cuba has tripled since 1962. These are the most important offensive ground warfare weapons.

Mr. President, as Defense Secretary Weinberger has stated, the United States will resist Soviet strategic offensive nuclear bases in Cuba in 1982, just as we did in 1962. What Mr. Weinberger seems to be asking for is precisely a reaffirmation of the September 1962 joint resolution on U.S. determination in Cuba, which I am proposing. This reaffirmation would be the perfect response to the authoritative statements by JCS Chairman General Jones, CIA Director Casey, and Under Secretary of Defense Ikle, that the Soviets are very clearly violating the Kennedy-Khrushchev agreement of 1962. A reaffirmation of the 1962 resolution would also be the perfect expression of solid support from the U.S. Senate for Defense Secretary Weinberger's call for firm measures to resist Soviet violation of the Monroe Doctrine and to oppose Soviet-Cuban aggression and subversion in the Western Hemisphere.

Mr. President, the former Foreign Minister of Costa Rica, Mr. Gonzalo Facio, 3 months ago, told U.S. journalist Jeffrey St. John that the Soviets were already staging a Cuban missile crisis in reverse. We need to show strong Senate support for firm U.S. action against renewed Soviet-Cuban provocation.

Former Costa Rican Foreign Minister Gonzalo Facio stated in an interview 3 months ago:

The object of the current Communist offensive in Central America is Mexico and its vast oil riches and its geographical proximity to the United States. If the Reagan administration does not soon take prompt action, the whole Central American region will go to the Communists in Havana and Moscow by default.

Mr. Facio is correct. He has also stated that the Caribbean crisis facing President Reagan is even more dangerous than the Cuban missile crisis of 1962.

Mr. President, the vote tomorrow for my amendment will be a vote for the Monroe Doctrine and a vote for the prevention of the continued Soviet military buildup in Cuba. It will be a vote for opposing Soviet-Cuban aggression and subversion in the Western Hemisphere.

Mr. President, in many parts of the country, there is a great deal of talk about immigration now. One can hardly pick up a national publication without seeing some article pertaining to the immigration problems that we face as a nation. I think it is interesting to note that the Communist countries around the world build walls to keep their people in and the capitalist countries, the free countries, have to build walls to keep people out.

Yet, somehow, we have been losing this propaganda war. I think it is high time, and the sooner the better, that we make a very clear, consistent policy so we can straighten out and recognize that there is an ideological difference between Communists and Americans, and go on the offensive with some of the virtues of our system and some of the humanitarian aspects of our country. That way, we can be much, much more successful in our foreign policy.

Mr. President, it is noteworthy, I think, that I mention in talking about an immigration policy, that I had some constituents call me this morning from Idaho to discuss with me what the potential immigration policy of the U.S. Government should be. I made the point to them that if the United States does not resolve a clear, concise policy and reaffirm what the law of this land is and enforce this law with respect to the Caribbean Basin, the argument about immigration policy is going to become very academic in the United States as the people in Mexico, once they are threatened with a Marxist-Leninist revolution, start voting with their feet and start fleeing across a 2,100 mile border into the United States. So I think it is critical.

I appreciate the support I have received from the 20 cosponsors of this resolution, including the distinguished Senator from North Carolina (Mr. HELMS), the majority leader, and many others who cosponsor this resolution. I hope that my colleagues will give it a resounding vote of confidence to give the administration the support that they need to have the firm resolve for a clear, concise American policy right in our own backyard, Mr. President. If we cannot conduct our foreign affairs in our own backyard, heaven help us in trying to settle any disputes that might come up between our friends or foes alike in parts far removed from the Caribbean or the United States.

CUBAN MISSILE UNDERSTANDING

Mr. MATHIAS. Mr. President, no living American who had attained the age of reason by 1962 will forget the high state of tension which existed at the time of the Cuban missile crisis. Yet, much about that critical episode in United States/Soviet relations remains shrouded in mystery and secrecy. There is much talk these days about agreements made between the United States and the Soviet Union with respect to Cuba. Yet one American participant in that crisis has described those "agreements" to me as so much "mush."

Stephen Rosenfeld had an excellent editorial in the April 2 Washington Post entitled "That Cuban Missile Understanding" which points to the confusion with respect to what was agreed to in 1962. I ask unanimous consent to have Mr. Rosenfeld's article printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. MATHIAS. Mr. President, I say all this because, whereas the distinguished Senator from Idaho, Mr. SYMMS, certainly has the best interests of the United States at heart in the amendment he is offering, it is not equally certain that the amendment will be beneficial. The record of what was agreed to and what was not agreed to in 1962 has not been made available to the Senate. The Senate Foreign Relations Committee has not received the informed testimony of this administration and, perhaps of greater importance, the testimony of participants in the events of 1962.

Therefore, I would hope that the committee could have the opportunity to consider the full implications of Mr. SYMMS' amendment before it comes to a vote.

EXHIBIT 1

THAT CUBAN MISSILE UNDERSTANDING

(By Stephen S. Rosenfeld)

With Washington threatening to "go to the source" in Cuba and with Moscow hinting it may put nuclear weapons there, it is a good time to check the no-invasion, no-offensive-weapons understanding that ended the 1962 Cuban missile crisis. One thing you find by going back is that Kenndey's and Khrushchev's (still unpublished) exchange is apparently being widely misread by the Reagan administration and by others arguing for a hard line.

CIA Director William J. Casey, for instance, when asked whether the arrival of new MiG23s in Cuba violates the 1962 terms told U.S. News & World Report on March 8: "Oh, sure it does because the '62 agreement said the Soviets would send no offensive weapons, and it also said there would be no export of revolution from Cuba. The agreement has been violated for 20 years."

On Wednesday, The Wall Street Journal recalled editorially that Kennedy had said after the crisis (on Nov. 20), "if all offensive weapons are removed from Cuba and kept out of the hemisphere in the future, under adequate verification and safeguards, and if Cuba is not used for the export of aggressive Communist purposes, there will be peace in the Caribbean."

The impression is being conveyed that the Kremlin is violating its word by shipping in "offensive" weapons and exporting revolution, and may violate it further by emplacing new missiles. President Reagan, while saying Wednesday night—accurately—that putting missiles into Cuba would be a "total violation," added that "there's been other (unspecified) things we think are violations." All this opens the possibility of dropping the bar against an invasion of Cuba.

Well. The Kremlin is shipping in MiG23s and, unquestionably, is exporting revolution.

But there is no evident basis for claiming that these acts violate the 1962 terms.

To comment on the first, I rely on a summary of the public record by Raymond L. Garthoff of the Brookings Institution, a retired diplomat, in the Political Science Quarterly, Fall 1980.

The "offensive military equipment" that Kennedy pronounced unacceptable on Oct. 22, 1962, included the ballistic missiles and "jet bombers, capable of carrying nuclear weapons"—IL28s. But Cuba's MiGs of the day (21s) were never declared "offensive," either in their fighter-interceptor or fighter-bomber version. Nor, as the 1962 understanding was updated by word and practice over the years, did the United States ever so proscribe the MiG23s (of both versions) that started showing up in 1978: they were few and not fitted out for nuclear arms.

As for the suggestion that the export of revolution violates the 1962 terms, the Soviets in 1962 did not forswear revolution. Nor did Kennedy say they had. He did list (Nov. 20) what "Chairman Khrushchev . . . agreed" to do: remove and keep out offensive systems, permit follow-up verification and safeguards. The United States, he went on, agreed not to invade.

Later in the same statement, he added another condition to his no-invasion pledge; it is the one often cited now—"if Cuba is not used for the export of aggressive Communist purposes." But he did not contend Khrushchev had agreed to it. In the next breath he spoke of "subversion from Cuba" as something we would be continuing to try to halt by other means.

If the Soviets keep "offensive" weapons out of Cuba, is the United States still bound by its no-invasion pledge? The pledge was limited by Khruschev's undertaking to arrange verification and safeguards. The Kremlin never delivered.

In 1970, however, Henry Kissinger, thinking to button down the Soviet no-offensive-weapons pledge, "reaffirmed" (as he put it in his memoirs) keeping hands off Castro. Inexplicably, he dropped the verification and safeguards condition, asking nothing in return. On Sept. 25, 1970, moreover, briefing the press about a threatened Soviet sub base at Cienfuegos, he indicated that the Kennedy no-invasion condition—that Cuba not be used to export aggressive Communist purposes—had no standing.

Is all this academic? I think not. Soviet-American understandings or agreements are special, to make or to break. The 1962 understanding embodied the vital if not the supreme interests of both sides. Its collapse or even its substantial erosion could have the most dire consequences. Tampering with the terms, or suggesting that the other side is, is playing with fire.

Mr. HELMS. Mr. President, I wonder if the Senator will yield without losing his right to the floor and with the understanding that, upon his resumption, it will not be considered a second speech?

Mr. SYMMS. I am happy to yield to the Senator.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the able Senator from Idaho is absolutely right. This amendment simply reaffirms what this Senator believes to be a timely and necessary manner a longstanding commitment of the United States to contain Soviet aggression, and, specifically Soviet expansionism in this hemisphere. It also addresses our historical dedication to the preservation of liberty and independence in the Americas. I am delighted to be a cosponsor of the amendment of the Senator from Idaho.

Mr. President, this is one of those occasions when I differ with the distinguished chairman of the Committee on Foreign Relations (Mr. PERCY). There is one specific aspect of today's debate which perhaps ought to be discussed. Some members of the Committee on Foreign Relations have repeatedly expressed their desire for the deliberations to which Senator PERCY refers in his "Dear Colleague" letter. We have not only suggested, we have repeatedly requested committee hearings on the substance of the Symms amendment, that is, the policy of the United States concerning Cuban activities in the hemisphere.

Normally, I would agree that any matter ought to be considered by the relevant committee; but when there has been a demonstrable obstruction of such deliberations, I think the Senator from Idaho and the Senator from North Carolina and others are entitled, if not obliged, to proceed with the offering of this amendment.

Having said that, Mr. President, I emphasize that I have done the best I know how to cause such hearings to be conducted. Three months ago, I requested that the staff of the Committee on Foreign Relations begin preparations for hearings and briefings on the Kennedy-Khrushchev accords, which addressed the substance of the pending amendment.

I happen to be chairman of the Subcommittee on the Western Hemisphere of the Committee on Foreign Relations, and I instructed staff personnel to proceed to set tentative dates for precisely the kind of hearings which Senator PERCY has deemed desirable.

On at least five occasions—there may have been more than that, but I recall five occasions—the State Department has flatly refused the invitation of our subcommittee to come and discuss this issue.

Is it not fair to ask, what kind of game they are playing? What is it that they do not want disclosed to the American people? They have been silent on this point.

I am not a sensitive human being, and I know how games are sometimes played in this town, but I would say that the distinguished Secretary of State has bordered on being discourteous in the way he has failed to respond to the request that he come and discuss this issue before the Subcommittee on the Western Hemisphere.

Mr. President, I am sure that most, if not all, members of the Committee on Foreign Relations are unaware of the many opportunities our subcommittee has offered the State Department for discussing these issues. There is no question about the subcommittee being the proper forum.

Members of the Foreign Relations Committee might recall that Secretary Haig, during the most recent appearance before the committee on February 2, told me that he would come, and I quote, at our "earliest convenience" to discuss these matters. That very day, I formally issued an invitation to Secretary Haig, by letter, to come before the subcommittee, in light of his desire to do so at his "earliest convenience."

What happened? As part of those games that are played in this town—most frequently, I believe, by the U.S. State Department—I had a call from the liaison of the Department that Secretary Haig suddenly did not see fit to come.

On March 16, I again asked Secretary Haig to appear before the subcommittee. At that time, I took note of a statement by Mr. William Casey, Director of the CIA, in an inteview published the week before in U.S. News & World Report, to the effect that the Kennedy-Khrushchev accords had been broken by Cuba virtually since the day these accords were reached 20 years ago.

I invited Mr. Haig, and what happened, Mr. President? The distinguished Secretary of State declined again. This is the same Secretary of State who had said he would come at our "earliest convenience."

I think the American people have a right to know the facts about a lot of issues that concern this country. I consider it more than passing strange that our Government exhibit any hesitation about letting the American people know precisely what was the agreement between President Kennedy and Nikita Khrushchev. Surely much of this information is readily available.

Various people in the State Department have said, "There are drawers full of this material. You wouldn't want to go through it."

I have replied, "Yes, I would. Ship it all up here. Let's look at it."

However, time and time again, in one way or another, they always say, "Well, we can't do it now."

What they are saying is that the American people do not have a right to know what kind of agreement was made by the then President of the United States with Nikita Khrushchev.

Mr. President, does somebody have something that he or she does not want the American public to know? Or do they not trust the American people with information about how their country enters into agreements—this one 20 years ago?

Mr. President, the pending amendment is just plain commonsense, offering fairness and equity to the American people, who have a right to know what their Government, which they are financing, is doing and has been doing in terms of foreign affairs.

I have said, and I reiterate, that invitation after invitation has been repeatedly declined. Just before the Easter recess, the committee scheduled hearings with Secretary Haig to have an overview of Central America on April 2. This broad subject could well have included some discussion on these matters, after the date was fixed, Senator PERCY came to me and said, "I have to be out of town. Would you mind chairing these hearings?"

I said, "Not at all. I will be glad to do it."

Somehow, when word got down to Foggy Bottom that we were serious about having hearings and serious about finding out, among other things, about the Kennedy-Khrushchev accords—and there went the hearings.

We—meaning the Senator from North Carolina and other subcommittee members, so far as I know—were not advised by Secretary Haig that he was not coming. I finally learned about that indirectly. I then sent Mr. Haig a telegram, on March 30, suggesting that, since the timing might be inappropriate for public hearings on a broad range of subjects, that the timing might be just right for a closed session concentrating on the Kennedy-Khrushchev accords and on their contemporary effect on our relationship with Cuban and Soviet initiatives in this hemisphere, the issue addressed by the Symms amendment.

Would you believe that to this moment I have not had any response from the distinguished Secretary of State? Again, he sent word indirectly. He said, "I do not want to come." He canceled his appearance with a telephone call to Senator PERCY, calling him out of a hearing. I was at my desk, down the hall, at the time. He did not call me. I recall seeing Senator PERCY shortly thereafter, on the elevator just after a vote; and he said, "Al Haig says he does not want to come."

I said, "What? Again, he cannot come?"

Mr. President, there is no possible excuse for the Senate not voting on this question now. The State Department has been given every opportunity to come up here and discuss this matter. We have even offered closed sessions in the unlikely event that there is something involved in this information that might be harmful if it were made public.

Now is certainly not the time for anyone to say to me, "Oh, wait a minute, we have to have committee hearings," because we have tried to have committee hearings over and over again. In this context that amounts to an evasive tactic, bordering on a charade, and I think it is orchestrated from Foggy Bottom, simply because they do not want to come up here and talk about a matter which I think is of utmost importance.

As to proper consideration, we have been willing to have that all along. It is the State Department, and perhaps some members of the Foreign Relations Committee, who have not wanted proper deliberation.

It seems to me rather clear that any indecisiveness by the Senate regarding the Symms amendment would be taken by the opponents of the United States as a signal that we are ready to renegotiate our dedication to freedom and peace in this hemisphere. I say to you, Mr. President, that freedom is not negotiable.

Let us face it. The Symms amendment is a duly considered restatement of longstanding policy. That is all it is. It does not pretend to be anything more or less. And the State Department, including the distinguished Secretary of State, Mr. Haig, has consistently refused to be a part of the deliberations.

Mr. President, the intransigence of any other body who thus attempts to impede the deliberations in this Senate should not deter us; and I do hope that every Senator will support the Symms amendment and do so forthrightly and unhesitatingly, thereby letting their constituents know, and letting the world know that the United States is firm in its opposition to internationally instigated revolution and terror, and offensive threats to this country's security on the part of the Soviet Union in its puppet government, its surrogate in Cuba.

I command the able Senator from Idaho for offering this amendment. I am proud to be a cosponsor of it and I want him to know that I will help in any way possible.

Mr. SYMMS. I thank the distinguished Senator from North Carolina very much, and I will yield to my good friend from West Virginia, but I do know from my friendship on the Public Works Committee with my friend from West Virginia that he was a very good friend of the late President John F. Kennedy, and I think it is interesting to note that it was John F. Kennedy who said in his inaugural address:

Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe in order to assure the survival and the success of liberty. This much we pledge and more.

I think, Mr. President, that is very consistent with what the distinguished Senator from North Carolina referred to when he said freedom and peace in the Western Hemisphere are not negotiable, and I thank the distinguished Senator from North Carolina for his support and I appreciate it.

Mr. President, I will yield to the Senator from West Virginia but I ask unanimous consent that I do yield for the purpose of discussion and statement and I do not lose my right to the floor and that my succeeding remarks are still part of the speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. SYMMS. I yield to my friend from West Virginia.

Mr. RANDOLPH. Mr. President, I request the able Senator from Idaho to yield to me for some brief comments. Is that possible?

Mr. SYMMS. That is right. I yield to the Senator from West Virginia under the terms of the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I thank the Presiding Officer.

Mr. President, I began by indicating that I served in the Senate at the time when President Kennedy was the Chief Executive of our Republic. Only for the record, it was my privilege, since mention has been made of the Environment and Public Works Committee, on which I share responsibility with Senator SYMMS, that I also had the opportunity and responsibility to be a member of the Committee on Labor and Public Welfare with John Kennedy when he was a Member of the Senate, before becoming the President of the United States.

Perhaps noteworthy, in degree, is the fact that all three of the Kennedy brothers served on the Labor and Public Welfare Committee—John Kennedy, Robert Kennedy, and Edward Kennedy. A membership on that committee gave me the opportunity to work on matters of jurisdiction which were of interest to and concern to all of us.

I ask the Senator from Idaho, why it is that he has no Democratic Members of the Senate as cosponsors in connection with the presentation of Senate Resolution 20?

Mr. SYMMS. I will just say to my good friend from West Virginia it certainly is not because they have not been invited because I have repeatedly personally invited the Members and corresponded with them and sent personal letters to particularly all of those who were in the Senate at the time that the last vote was taken on this issue in 1962.

I might say to my good friend from West Virginia I received several assurances of support that they would vote for the resolution but they did not particularly wish to cosponsor it.

But as the Senator from West Virginia knows because as he knows he was here in 1962 and had voted for this same language in 1962, the vote was 86 to 1 in favor of this language, and as a matter of fact, the 1 vote who voted against it was a Senator from Vermont who thought that the language was too soft.

I would certainly say to my good friend from West Virginia that I would love to include him as an original sponsor of this resolution if he wishes to do so.

Mr. RANDOLPH. Mr. President, I have come to the floor this afternoon to indicate that the affirmation earlier given would be a reaffirmation by me in connection with the pending amendment to Senate Resolution 20. I ask unanimous consent that I be included as a cosponsor with those Senators whose names I read on the amendment as it is now pending.

Mr. SYMMS. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, the Senator will be included as a cosponsor.

Mr. RANDOLPH. I wish to inquire further and I state for the Record that I did object to the offering of the amendment on the resolution (S.J. Res. 170) which I had presented to the Senate for the national hospice week legislation. I wanted him to understand that in so doing it was not because of the content of his amendment but only in the nature of that legislation which I felt should be passed without encumbrance, even of debate.

I hope my colleague understands my position in reference to this hospice measure which was passed by the Senate unanimously.

Mr. SYMMS. I thank the Senator very much. I think the Senator's cosponsorship of this resolution certainly makes that very clear, and I appreciate that. I did understand the Senator's reservation at the time.

Mr. RANDOLPH. I believe there is a feeling that becomes more pronounced in the United States, more so than perhaps in prior years, in recent years, as to the attention that we must give to the doctrine of our former President, James Monroe. The Monroe Doctrine, of course, was in 1823, as has been stated by the earnest Senator who presents this legislation.

Sometimes it takes us a long time to come back to some earlier truth and, perhaps, in the country now there is beginning to be a realization that some of the doctrines of George Washington are worth studying very carefully after a long period of years. The doctrines of Thomas Jefferson; the doctrines of Franklin Roosevelt; the doctrines of any of our Presidents of the United States are important in their historical perspective. We begin to study anew and to reflect and we begin often to not only evaluate but to reevaluate them.

There is no one within the Senate, and I say no one within the Congress, who would indicate today that Cuba is a friendly neighbor. What is the comment of my colleague from Idaho to that statement?

Mr. SYMMS. Why, I think the Senator is quite correct that Cuba, due to the political leadership in Cuba of Fidel Castro, as a proxy of the Soviets in this hemisphere, becomes not only unfriendly to the best interests of peace and security in that region of the world and the southern part of the United States but has become unfriendly to us, and I think that is very sad and unfortunate because the Cuban people—and I have had the opportunity to visit Cuba in recent years since the Castro takeover—actually, I think, would like to be friends with the United States.

But there is a tremendous propaganda machine that goes on all the time. There is an ideological war, a brainwashing, if you will, of anti-American propaganda constantly.

Before the Senator came to the floor, we were talking about the immigration problem in this country and the necessity for us to stand firm so that we will not have everyone in Latin America come into the United States.

I have made the comment many times though that when the 100,000 Cubans came last year to seek freedom and asylum in the United States the only reason we do not have several millions of that 10 million population is because most of them cannot swim 90 miles, because life is tough in Cuba. There are no consumer goods, there is no productivity; the country did at one time have a much happier population. They had a people who were free and able to seek some opportunities for themselves in a market condition.

That is no longer the case. They work where they are told to by the Government. They have very few consumer goods from which to choose. They have very few choices about what they can do with their lives and, more importantly, they have practically no freedom.

I think it was very heart warming to me—I went to a Catholic church when I was there just to look and see if I could find some people who might be friendly toward the United States. A man came up to me with tears in his eyes who said, "You are an American, aren't you?" He said, "Oh, we wish we could be friends with Americans and how we would love to have them visit in Cuba, and get rid of the Communist dictatorship we have here." He could speak English. It was heart warming to see the look in his eyes and to know that there are still those kinds of people there.

But there is no question about what the Senator from West Virginia is talking about, that Fidel Castro has been an absolute cancer to a sound American policy in the Western Hemisphere, and it has been allowed to grow and to cause us problems, and it is long overdue for us to reassert and reaffirm what our posture and our position should be.

I thank the distinguished Senator not only for his friendship here in this body but for his support on this important amendment, to speak to this issue.

Mr. RANDOLPH. Mention has been made of the action in connection with the airlift. I remember—it is not improper for me at this time to say, that I recall—an appointment which I made with Senators Holland and Smathers of Florida at the time of the beginning of the airlift.

I felt then, as I feel today, that it was wrong for the United States of America to institute an airlift for which we were the country paying the cost. I have never felt that that was a sound policy. In other words, we were shuttling aircraft back and forth to Cuba at the expense of the American taxpayers, disregarding any quotas that we have had through the years for those nationals of countries who might be coming into the United States.

I well realize and I agree with the words of George Washington in his Farewell Address, words which were never delivered but written by the first President of our Republic. In that address he said, "Citizens who by birth or choice of a common country, that country has the right to concentrate your affections."

A reading of the English language will indicate the word "affections" meant a commitment, a belief then, perhaps more than now, that the word "affections" was understood to be the native born and the naturalized.

Washington referred to these people, I reemphasize, as "those citizens who by birth or choice of a common country, that country has the right to concentrate your affections."

Yes, I felt the airlift was wrong, and I said to my good friends and able colleagues, Spessard Holland and George Smathers, that perhaps if they could be leaders in a movement to see that the airlift not continue, not in their best political interests—I did not discuss it from that standpoint—but from the interests of the State of Florida, and ultimately the United States of America. I have no criticism of either one of these men, except to say that, as I look back, I wonder why there was not some concerted effort—perhaps I was at fault, perhaps others were at fault. Some might say, "You were not at fault because what you wanted to do was not the right course."

Now let us say somewhat over 20 years later, it is not always best to try to pin down precisely what might have been done.

I feel from my standpoint it is the time to speak. I am not attempting to discuss Secretary Haig and his reluctance to see this amendment move through the Foreign Affairs Committee or the subcommittee which has been mentioned by our friend, Senator HELMS from North Carolina. I am saying that there can and should be a way whereby the Senate of the United States can express its approval or disapproval of the pending resolution.

I note the name of the helpful majority leader, HOWARD BAKER of Tennessee, as a cosponsor of the amendment proposed by Senator SYMMS. Can you give us further information as to the attitude of the majority leader in reference to this matter? I am not attempting to try to determine the methodology by which we can come to grips on a vote on this question. I know the majority leader, as a cosponsor with others, will do what he seems to be able to do at the right time in bringing this matter to an actual vote. Would it be proper for the Senator to discuss any conversations he may have had with the majority leader?

Mr. SYMMS. I would say to my good friend from West Virginia that in my discussions with the majority leader I do know that he will be voting against a motion to table this resolution. I do not know further as to what his intentions would be, but I do know that he indicated to me personally he would be voting against the motion to table.

I think it is his intention to seek the first vote on this resolution sometime tomorrow afternoon and to resolve this question so that we can go on with Senate Joint Resolution 20, the question of television in the Senate.

Mr. RANDOLPH. Mr. President, it does no particular good and perhaps not too much harm to be personal in a matter of this kind. I remember a man who was a friend of mine, James B. McCauley, who went to Cuba and established a business there, not for monetary return only to him, but to give employment. He was successful in our country and had been encouraged by the people within Cuba to establish a plant on that island. He did so.

There was a change of government leadership. I will not go into details, but, after the change, he went to check on what was being done at his plant because of rumors and definite information he had. He attempted to drive his auto to the factory outside of Havana. He was pulled over to the side of the road. He was thrown from the car. This man who served in the forces of the United States as a pilot. The car was burned while he was forced to look at its destruction. The plant that he had in Cuba was expropriated and he never received one penny of payment for that action which included the plant itself moving from his hands into the hands of those who are now in charge of that country.

And when I speak of those hands, I speak, in not an attempt to be dramatic, of the hands of Fidel Castro, when he was in the Capitol after he had become an "agrarian reformer" in Cuba. And he said—and I remember the words—"We come as your friends. We are your friends." I believe the record is replete with no friendship.

I have believed always in the efforts of men and women throughout the world to understand one another, to counsel with one another, in the hope that peace might ultimately come to the peoples of this Earth. And yet, I sometimes wonder if it can be a reality.

We make mistakes in what we do. I recall I offered in the mid-1940's legislation to create a Department of Peace in this country, a Secretary of Peace for our Nation. And the years come and they pass quickly, sometimes slowly, as we look back and see that those efforts which were made at that time. They were looked on as fantasy with no substance to them.

I am gratified again to see at least the stirrings toward the thinking of men and women of good will everywhere, including America. The idea of our Peace Academy is now approached differently from the Department of Peace or the Secretary of Peace, I hoped we might establish one or both in the 1940's. Now we have had a Commission appointed through the action of the Congress. That Commission for 1 year studied the idea of the Peace Academy. A Peace Academy, as we would have a West Point or an Annapolis or any of the other of the academies. A Peace Academy where students would delve into the problems of conciliation.

It is a long process, sometimes, to understand other peoples and for them to understand us. But I do report that which is already known. The Commission—people who were very, very capable in doing the job as members—after very careful study, they have recommended in favor of the idea of a Peace Academy in the United States of America.

The hearings to be conducted by the Subcommittee on Education, Arts and Humanities will begin on April 21 on the Peace Academy proposal itself. I hope members will give attention to looking more carefully into the reasons why this particular period in a volcanic world, not only of the Earth but of the minds and hearts and bodies of men and women, that we think, of the positiveness that might come from an action toward the establishment of a Peace Academy within the framework of the Government of the United States.

Mr. President, having talked without notes, having stood in the Chamber because I thought this was the time that I should come here and assure—perhaps reassure—the Senator from Idaho that there must not be a constant blocking of the actual voting on the amendment or the tabling motion of the amendment, in the Senate.

I am grateful for Senator SYMMS' understanding of my request to speak today. I had not cleared this request with him. I came here, hopeful that I might make constructive comments during the pending debate.

Mr. SYMMS. I thank the Senator very much for his very enlightened remarks, not only from years and years of experience and wisdom that he has accumulated here in the Congress, but certainly from his heart. I appreciate that so much.

Mr. President, I ask unanimous consent that Senator RANDOLPH be added as a cosponsor of this amendment, and also that he be added as a cosponsor to the original resolution that is pending before the Senate Foreign Relations Committee with the same language as this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

TECHNOLOGY TRANSFER: SELLING THE SOVIETS THE ROPE

Mr. ARMSTRONG. Mr. President, America's budgetary woes would not be nearly so severe if our economy were not groaning under the strain of financing two military budgets: Our own, and a significant portion of the Soviet Union's.

President Reagan has proposed spending the incredible sum of $1.6 trillion over the next 5 years in order to counter the awesome Soviet military buildup of the last decade and a half.

Defense expenditures of this magnitude will impose a heavy burden on a U.S. economy already reeling from the consequences of too much Government spending, taxing, and regulation. But such defense expenditures will be required if Americans are to be kept safe, free, and out of war.

The great irony for Americans who will be asked to tighten their belts in order to pay for our defense needs is that much of the additional money that must be spent on defense is required to offset Soviet weapons that probably could not have been built without our assistance.

It is hard to put a price tag on the additional burden heaped on our taxpayers by our reckless trade policies with the Soviet Union. But if it were not for these policies, we likely would not need the MX missile or the B-1 bomber to counter Soviet weapons we helped the Russians build.

Even more difficult to calculate, but far more important, is the human suffering that has been caused by Communist aggression, aggression made possible, in large part, by unwitting American and Western European aid.

In the last 10 years alone, the United States and other Western nations have sold to the Soviet Union and its satellites more than $50 billion worth of sophisticated technical equipment the Communists could not produce themselves. This equipment has been used to produce nuclear missiles, tanks, and armored cars, military command and control systems, spy satellites, and air defense radars. In addition, the Soviets have been able to purchase entire factories, designed and built by Western engineers and financed in large part by American and Western European banks. Much of the production of these factories is devoted to the manufacture of military transport, ammunition, and other logistical items for the Soviet war machine.

It is difficult to overstate the extent to which the West has contributed to the military threat that now endangers our very existence. Consider that:

In 1972, President Nixon authorized the sale to the Soviet Union of 164 precision ball bearing grinders manufactured by the Bryant Chucking Grinder Corp., of Vermont. These grinders can manufacture tiny ball bearings to remarkably precise specifications—a 25-millionth of an inch—the precision necessary to build the inertial navigation systems for multiple warheads on intercontinental ballistic missiles (ICBM's). The Soviets had tried to buy the Bryant grinders in 1961, but President Kennedy had turned them down on national security grounds.

Shortly after the sale of the Bryant grinders, the Soviets began deploying a new generation of ICBM's which were 10 times more accurate than their predecessors, and which, for the first time, were capable of carrying multiple warheads. Soviet deployment of these new monster missiles took our intelligence community by surprise. We had assumed it would be years before the Soviets would have the technology to MIRV their warheads and to obtain the accuracies we estimate for the SS-17, SS-18, SS-19, and SS-16/20 ICBM's. Nobody in the West knows for sure how much the Bryant grinders may have assisted the Soviet ICBM program, but intelligence officers have a built-in suspicion of coincidences.

The U.S. contribution to the new generation of Soviet ICBM's may have begun earlier, in the late sixties, when Soviet military research scientists were permitted to study at the Massachusetts Institute of Technology. Their U.S. hosts were most accommodating. Not only were the Soviet scientists brought up to speed on the latest U.S. technological developments, they were permitted to tour plants where the technology was being put to work for the Department of Defense.

Our contribution to the Soviet missile program did not end there. The Soviets were also able to obtain microprocessors important in missile guidance systems and computers which can be used to design nuclear warheads.

One thing certain is that we are paying a heavy price for our overly generous dealings with the Russians. The new Soviet missiles are capable of destroying all our land-based missiles in a surprise attack. A nuclear Pearl Harbor, literally "unthinkable" just a few years ago, is no longer so unthinkable to the generals in the Kremlin. It is because of the new vulnerability of our ICBM force that the Pentagon is now seeking to deploy the MX missile, which ultimately could cost us $100 billion or more.

Also in 1972, U.S. participation was authorized in the construction of the Kama River and Zil truck plants. The Kama River plant, near the city of Neberezhnyye, is the largest heavy truck plant in the world, able to produce 250,000 trucks and half again as many diesel engines annually. The plant was built almost entirely with $500 million worth of Western-supplied equipment, technology and know-how, and financed in part by loans from American banks. Our intelligence agencies believe a substantial portion of the Kama River and Zil plants is devoted to the military, producing not only military trucks, but engines for Soviet armored personnel carriers, missile launchers, and components of the latest Soviet main battle tanks. Most of the Soviet soldiers who rode into Afghanistan rode in vehicles produced in these plants and two others, Gaz and Minsk, that also received large infusions of Western technology and were financed in part by Western banks.

The Western contribution to the mobility of the Red army is threatening not only the liberty of the Afghans, but our own industrial lifeline as well. The Red army always has been very large, but in the past it could not go very far from the Soviet Union, or stay there for very long, because its logistics base was too small. Now, thanks in large part to us, the Soviets have the capability to project military forces rapidly into the Persian Gulf, threatening the vital oil resources there.

These Western contributions to the Soviet war machine are the result of our belief in the civilizing and pacifying effects of trade and cultural ties with the Soviet Union and an alarming failure to discriminate among various types of trade.

The Soviets have a world view that is radically different than our own. Communist Party boss Leonid Brezhnev told a meeting of Warsaw Pact leaders in Prague that détente was, from a Soviet perspective, a means of lulling the West into a false sense of security while the Soviets acquired from the West technology that would make possible Soviet military domination of the world by the mid-1980's.

This always has been the Soviet view of East-West trade. Hear the testimony of Aleksandr Solzhenitsyn, who knows from bitter experience how the Communist mind works:

> I must say that Lenin foretold the whose process. Lenin, who spent most of his life in the West and not in Russia, who knew the West much better than Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the USSR. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from the one rather than from the other. He said: they will bring it themselves without thinking about their future. And, in a difficult moment, at a Party meeting in Moscow, he said: "Comrades, don't panic, when things go very hard for us, we will give rope to the bourgeoisie, and the bourgeoisie will hang itself." Then Karl Radek . . . who was a very resourceful wit, said: "Vladimir Ilyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied: "They'll supply us with it."

Westerners, I am sorry to say, lived down to Lenin's expectations. In 1918, even before the Bolsheviks had consolidated power in Russia, businessmen—including representatives of several prominent Wall Street banking firms—were clambering over themselves in their eagerness to gain concessions from the new Soviet state.

Lenin's policy of doing business with Western capitalists caused him problems with less perceptive Bolsheviks. At a party meeting in 1920, Lenin—in terms that would be echoed 50 years later by Brezhnev in Prague—felt compelled to reassure his comrades that: "Concessions do not mean peace with capitalism, but war on a new plane."

This "war on a new plane" was, from the Soviet perspective, enormously successful. Lenin granted some 350 concessions to Western firms, including General Electric, Westinghouse, International Harvester, RCA, Alcoa, Du Pont, Ford, and Standard Oil of New York (Mobil). This massive infusion of Western capital, technology, and know-how worked a miracle on Russia ravaged by 7 years of war and civil war. By 1930, when a semblance of order had been restored to the Soviet economy, all but a handful of these firms had their property expropriated without compensation.

Undaunted by what should have been an eye-opening experience, Western businessmen again flocked to the Soviet Union when invited by Stalin to participate in his first 5-year plan. Again, the Western contribution to the Soviet industrial base was massive. In 1944 Stalin told Eric Johnston, then the president of the U.S. Chamber of Commerce, that two-thirds of the large industrial projects in the Soviet Union had been built with American assistance.

It is difficult to overstate how much all this contributed to Soviet military and industrial might. Antony Sutton, author of the authoritative three volume study "Western Technology and Soviet Economic Development," declares flatly: "There is no such thing as Soviet technology."

Sutton exaggerates, but not by much. Even a prominent Soviet scientist, in a cocktail party conversation with his American counterpart, jocularly acknowledged that the most prolific Soviet inventor is "Comrade Reguspatoff." Reguspatoff is shorthand for "Registered U.S. Patent Office."

Clearly, a comprehensive reexamination of our trade policies with the Soviet Union and her satellites is long overdue.

Our first and foremost concern should be to keep out of Soviet hands goods, technology, and know-how that helps the Soviets build sophisticated weapons they could not otherwise build. We are at a critical point. The Soviets have many more of most weapons than we do. But we have been able to maintain rough military parity because, in most instances, our systems are much better than theirs. Now we are in grave danger, not simply of losing, but of giving away this vital technological edge. Our problem is compounded by the fact that advances in the most vital areas—computers, microprocessors, high-energy lasers, et cetera—are made first in the commercial sector, and only later applied to military uses. But the Soviets put military purposes first. So we simply must have strict and comprehensive controls on these so-called dual use technologies.

We also must take a closer and harder look at the sale to the Soviet Union of industrial goods and processes which are not in themselves threatening, but which permit the Soviets to devote more of their own resources to military purposes. A case in point are the Caterpillar tractor-pipelayers they want to use in building a natural gas pipeline from Siberia to Western Europe. The Soviets want to buy the Caterpillar pipelayers not because they do not know how to build tractors—that is no big secret—or because they do not have tractor plants in which to build them; we helped build a number of tractor plants for them in the 1930's. No; the reason why the Soviets want to buy American pipelayers instead of building their own is because their tractor plants are all pretty much full up—building tanks. They do not want to cut back on their tank production. We, on the other hand, should want that very much. If the Soviets were building more tractors and fewer tanks, we probably would not be forced to spend $12 billion to modernize our tank force.

There are some who say we should not try to curb the sale of American products—including high-technology products which clearly are being put to military use—to the Soviet Union because "if we don't sell it, someone else will."

This argument is, of course, morally flawed. Just because there are dope peddlers who sell dope to small children does not mean we have to install vending machines in the school cafeteria to dispense marihuana, cocaine, and amphetamines.

But this argument is also practically flawed. In a number of highly critical areas, computers and microprocessors in particular, the United States has technology which is unavailable anywhere else. And in many areas where hardware as capable as our own can be obtained elsewhere, the software, that makes the hardware go, cannot be.

Finally, what makes a great nation different from simply a large nation is its ability to lead. All the nations with technology comparable to ours in the West trade much more with us than they do with the Soviet Union, and rely on us rather than the Soviet Union for their protection. Through a combination of the carrots and sticks at our disposal, we ought to be able to persuade these nations—most of which are allied to us—to tighten up their own technology export policies.

There are others who say we should not impose restrictions on trade with the Soviets for fear of lost opportunities for American business. Certainly, the prospect of winning a piece of the

Russian market has bedazzled businessmen for decades. The total volume of our trade with the Soviet Union is only one-third of our volume with Taiwan, and only 10 percent of United States-Soviet trade was in the high-technology goods which help build the Soviet war machine.

Another area which requires a much closer look are our cultural, scientific, and educational exchange programs with East bloc countries. Virtually every Soviet exchange student in the United States in here to learn more of the hard sciences which the Soviet Union trails the West. Western students in the Soviet Union, on the other hand, are permitted to study only such subjects as "A comparative Semantic Analysis of Verbal Aspect in Russian and Serbo-Croatian" and similar humanistic studies which give no clue as to Soviet technological development, or the application of that technology to Soviet military purposes. We have learned from bitter experience how damaging these seemingly innocent exchange programs can be. As noted above, the new generation of Soviet ICBM's probably had their genesis in an exchange program at MIT. There are more recent examples. In the mid-1970's, a Soviet scientist was given permission to study under a University of Michigan professor who happened to be a leading authority on fuel-air explosives. That scientist is back in the Soviet Union now, heading up the Soviet R. & D. effort on fuel-air explosives.

Finally—and in the long run most important—we need to reexamine the fundamental premises on which our détente relationship with the Soviet Union is based. We need to seriously consider the totality of our military, scientific, political, commercial, cultural, and other relationships with the U.S.S.R. and emphasize those which promote peace and/or U.S. interest and terminate those which increase tensions or Soviet war capability.

The fundamental premise of détente was that the more we traded with the Soviet Union, the more dependent their economy would become on ours. But, as the debate over the Polish loans makes clear, precisely the opposite has happened. Instead of making the Soviets more dependent on the West, our trade policies have given them an entirely new weapon with which to threaten our security.

The awful truth is summarized by an old Polish proverb which goes as follows: "If you owe 1,000 zlotys, the bank owns you. But if you owe a million zlotys, you own the bank." Most trade with the Communist bloc is financed by loans from Western banks, often at absurdly low interest rates guaranteed by Western governments. By the end of 1980, Soviet bloc nations owed nearly $70 billion to the West, about four times what we loaned under the Marshall plan to revive Western Europe at the end of World War II. That debt is expected to rise to $120 to $140 billion by 1985 if the present lending pattern continues unabated. If we permit the debt to mount that high, the Soviets will be able to undermine the entire financial structure of the West simply by doing something they have already done before—declare they will not repay the loans.

The time for another Soviet repudiation of debt may be drawing near. In 1976 the Soviets created an ingenious financial gambit to obtain the Western technology they wanted via loans taken out by their satellites. The Soviets got the goods, and the satellites got the bill. This was a bad deal for the satellites, but with Soviet troops occupying their countries, they did not have any choice but to go along. Now the game is just about over. Poland and Romania already are unable to repay their loans; Hungary and East Germany are not far behind. Their debts already are much larger than any realistic assessment of their ability to repay them. And although the Soviet Union has been careful to heap most of the burden onto the shoulders of its subject nations, Soviet hard currency debt also has expanded sharply, and is expected to rise further in the next few years.

The case of Poland is instructive. Poland is flat broke. Without additional loans, the current martial law regime will be unable to make interest payments on the money it already owes, much less actually repay those loans. Aside from naked military force, all that is keeping the present puppet government in power are the excessibly lenient credit terms the West has granted, and is continuing to grant, to Poland.

Right now, the Soviet Union is enjoying the best of both worlds in Poland. The Soviets enjoy the benefits of conquest—they installed the puppet government in Poland—while we in the West pick up the costs of occupation.

But all that could be reversed overnight if Western governments would require their bankers to recognize the obvious and write off the Polish loans as bad debts. Poland would not be able to borrow another dime in the West. The Soviets would be left with nothing but bad choices. Either they would have to assume the burden of supporting the Polish economy themselves, or let the Polish economy collapse. If the Soviets decide to bail out the Polish economy—and after it the Romanian, Hungarian, and East German economies—each ruble they would spend would be one ruble less they could devote to their war machine. On the other hand, if the Soviets let the Polish economy collapse, in all likelihood the martial law regime would collapse with it. The Soviets then would have to choose between permitting the very real possibility of an anti-Communist government being formed in Poland, or intervening with military force. Military intervention would have serious economic and political consequences for Russia. The Red army is not designed for long-term deployment beyond its borders, and the maintenance of a force the size required to occupy Poland would impose a huge drain on the Soviet economy. Furthermore, Soviet soldiers putting out fires in their own backyard would be in no position to threaten Western interests in the Persian Gulf, Africa, or elsewhere in the world.

But Western governments, including, I am sorry to say, our own, have so far refused to take this obvious step. The reason given is the potential losses to Western banks of writing off the Polish loans.

These fears are exaggerated. At present, Poland owes about $26 billion to the West, of which a little more than $3 billion is owed to the United States. Of the United States, about $1.2 billion is owed to private banks, and the remainder to the Government itself. The Polish debt in private hands is spread fairly evenly among our 10 largest banks. Default would cost these banks little more than embarrassment over having made bad loans, and a reduction in their annual profits.

European bankers, especially West German ones, would suffer more. Poland owes about $6 billion to West Germany, of which approximately $3 billion is owed to the West German Government. The remainder of the debt is spread among nearly 100 private banks. Some of these banks would suffer substantial losses if forced to write down the Polish loans entirely, but all would survive. At least that is the assessment of our Ambassador to West Germany, Arthur Burns, who, as a former Chairman of the Federal Reserve, is in a position to know.

If the consequences to the West of a Polish default would be more severe, as some bankers allege, that is all the more reason for forcing default now. If Poland is forced into default now, the costs to the West pretty much can be restricted to a dimunition of earnings. But if we permit East bloc debt to rise to the vicinity of $120 to $140 billion, then a Communist repudiation of debt could cost millions of Americans and Europeans their life savings, and ultimately their freedom.

Permitting Poland to go into default now also could put the kibosh on the Yamal pipeline, the No. 1 Soviet goal in their current 5-year plan. The Yamal pipeline is a $10 to $14 billion project to build a 3,600-mile natural gas pipeline from northwestern Siberia to West Germany. Much of the technology and most of the capital required to build the pipeline would come from the West.

The security of the West is seriously threatened by completion of the Yamal pipeline. It is expected to supply up to 30 percent of West Germany's natural gas needs when completed in the 1990's. In a future crisis, the Soviets could say: "Do what we want, or we will turn off the gas."

That is only the worst aspect of the Yamal pipeline. There are two others that are nearly as bad. The infusions of Western capital to build the pipeline, and, later, proceeds from the sale of Siberian gas will earn the Soviets $6 to $8 billion a year in badly needed foreign exchange with which to buy Western technology to pump into their war machine. In addition, the Soviets plan five spurs within the Soviet Union from the main pipeline. Each spur would go to the 5 major military-industrial complexes where most of the 135 Soviet plants devoted primarily to building arms are located. The Soviets are running out of oil and coal. They need the natural gas and they need our help to drill and ship in order to keep their war industries running at full capacity in the latter part of this decade.

Finally, there is an aspect to the Yamal pipeline that should turn the stomachs of humanitarians everywhere. The Soviets are experiencing a labor shortage which will become severe by the 1990's. There are not enough hands to do all the manual labor that needs to be done on the pipeline, and there are not enough amenities in Siberia to entice Soviet workers to go there voluntarily. So the Soviet Government is likely to use what is, for all practical purposes, slave labor to help construct the pipeline. Mikhail Makarenko, a Soviet dissident who was an inmate of Soviet concentration camps as recently as 1978, says he is certain the Soviets will use concentration camp labor for much of the pipeline work. Furthermore, there are indications the Soviets will import up to 500,000 Vietnamese to do manual labor. The Vietnamese are being taken primarily from "politically unreliable" elements of what used to be South Vietnam and being sent to the Soviet Union for indefinite periods of time. The Vietnamese have little say in the matter. This is the price the Soviets are exacting for keeping the Communist government in Vietnam afloat economically. The use of what is, for all practical purposes, slave labor in the construction of the Yamal pipeline should be reason enough to prevent Western participation in it.

I have painted a grim picture of where our reckless trade policies with the Soviet Union have been leading. Clearly, things have reached a crisis. But in times like these it is important to remember that the Chinese words for "crisis" and "opportunity" are one and the same. If we recognize the consequences of our folly and take proper corrective action, we can thwart Brezhnev's plan for world dominion.

Our strength and Russian weakness is economic, not military. The Soviets are depending on us to continue to supply them with "the rope" until they have enough to hang us. But there is still time to yank the rope away.

REAGANOMICS: RECOVERY OR RUINATION

Mr. MOYNIHAN. Mr. President, on April 5, I attended a forum at the Roslyn High School in Roslyn Heights, N.Y., sponsored by the Nassau County Democratic Committee—a committee ably chaired by Mr. Martin Mellman. The subject of the forum was "Reaganomics: Recovery or Ruination." While there, I was presented with a petition concerning the President's economic program that has been circulated by Charles F. and Dorothy Spahn, the wording of which is striking in its simplicity. Mr. President, I ask unanimous consent that the petition together with its list of signatories, be printed in the RECORD.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

APRIL 5, 1982.

Senator DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, D.C.

RESOLUTION

Whereas President Reagan's programs submitted to Congress contain:

1. Cuts in school lunches.
2. Cuts in food stamps.
3. Cuts in welfare.
4. Cuts in immunization program for school children.
5. Relaxation in safety requirements for children's toys.
6. Cuts in funds for the handicapped including the deaf-blind.
7. Relaxation of pollution control for industrial and automobile emissions.
8. Postponement of requirements for safety belts or air bags in new automobiles.
9. Cuts in funds for inspection of mines.
10. Relaxation of safety and sanitary requirements for nursing homes.

Whereas if the above programs of President Reagan were adopted by Congress, it would result in:

1. More hunger.
2. More malnutrition.
3. More brain damaged children.
4. More illness.
5. More injuries.
6. More deaths.

Resolved That President Reagan's programs are dangerous to people's health and, therefore, should not be adopted by Congress.

LIST OF SIGNATURES

Charles F. Spahn, 87 Maple Street, Roslyn Hts. 11577.

Dorothy V. Spahn, 87 Maple Street, Roslyn Hts. 11577.

Henrietta Rueffberg, 32 Pebble Lane, Roslyn Hts. 11577.

Zarl Golotte, 74 Mayloft Lane, Roslyn Heights.

Mollie De Toma, 26 Sycamore Drive, Roslyn 11576.

Charles Gron, 55 Circle Drive, Syosset 11791.

Pearl Sashin, 14 Pinetree Lane, Roslyn Heights, 11577.

Anne Bernhart, 8 Sycamore Drive, Roslyn 11576.

Gladys Klepper, 23 Regent Place, Roslyn 11576.

Eva Weitzer, 39 Edwards Street, Roslyn 11577.

Beverly Hunter, 44 West Drive, Manhasset 11030.

Estella Joraa, 53 Circle Drive, Roslyn Heights 11577.

Mario Defforio, 26 Sycamore Drive, Roslyn.

Syrie Freedman, 4 Circle Drive, Syosset 11791.

Bernard Seltz, 8 Spruce Drive, Roslyn.

Blanche Winnick, 63 Par Reevay Drive, Roslyn.

Hanna Pichenny, 1 Knollwood Road, Roslyn 11576.

Bette and Ed Fisher, 29 Eton Road, New Hyde Park 11040.

Joseph and Ruth Kerthnan, 225-11 Hillidi Avenue, Queens Village 11427.

Fay B. Weiner, 30 Tocun Path, E. Hills 11577.

Evelyn Goedstod, 27 Midland Road, E. Hills 11577.

Virginia M. Rotumno, 91 Pt. Washington Boulevard, Roslyn.

Seymour Hunter, 44 West Drive, Manhasset 11576.

Lillian Orloff, 16 Redwing Lane, Levittown 11756.

Walter Orloff, 16 Redwing Lane, Levittown 11756.

Suskin Kressel, 128 Shield Street, Garden City.

Eleanor Kressel, 128 Shield Street, Garden City.

Helen Glannon, 1621 N. Boulevard, Roslyn 11576.

Sidney Robbins, 10 Fernwood Drive, Roslyn Hts., N.Y.

Bobbie Robbins, 10 Fernwood Drive, Roslyn Hts., N.Y.

Muriel Rosenfeld, 103 Barburry Lane, Roslyn Hts., N.Y.

William Rosenfeld, 103 Barburry Lane, Roslyn Hts., N.Y.

Jeanette O'Brien, 15 Crab Tree Lane, Roslyn, N.Y.

Charlotte Gershwin, 15 Crab Tree Lane, Roslyn, N.Y.

Lilly Handelman, 10 Saxon Court, Glen Cove, N.Y.

Theresa Meyer, 93 Maple Street, Roslyn Hts., N.Y.

Charles Meyer, 93 Maple Street, Roslyn Hts., N.Y.

Mary Meyer, 93 Maple Street, Roslyn Hts., N.Y.

Sylvia Wald, 1820 Andrew Road, E. Meadow, N.Y.

AFGHANISTAN

Mr. MOYNIHAN. Mr. President, while public attention in the United States is now focused on the struggle to strengthen democratic institutions in El Salvador, a little-noticed battle for freedom continues to be waged in the distant land of Afghanistan.

More than 2 years after the Soviet military occupation of Afghanistan, popular resistance to Communist rule remains strong. Despite the presence of over 80,000 Soviet soldiers, the people of Afghanistan have managed to reassert local authority over virtually all of the country. Rosanne Klass, director of the Afghanistan Information Center and Freedom House, the highly respected monitor of human freedoms around the world, has estimated that as much as 90 percent of the country may be in the hands of Afghan freedom fighters.

Significantly, defections from the ranks of the Soviet-backed puppet government continue to swell the ranks of the resistance movements.

The New York Times reports the defection of the most prominent Afghan official to date, Mr. Abdul Rahman Pazhwak, who has recently escaped to India. There, the former diplomat hopes to foster greater cooperation among the various resistance movements.

Mr. Pazhwak, who served his country as Ambassador to London and New Delhi, as well as Permanent Representative to the United Nations, has proposed that the United Nations Security Council undertake new efforts to convene an international conference on Afghanistan. The purpose of such a conference would be to establish a new government in Kabul following U.N.-supervised elections.

While the Soviets clearly are not now inclined to agree to such a proposition, it is important that their refusal to cooperate be emphasized to the international community. The administration must press for greater U.N. attention to the situation in Afghanistan.

I trust that our distinguished Ambassador to the United Nations, Jeane Kirkpatrick, is inclined to do so. I urge officials at the Department of State in Washington to support her in these efforts.

Mr. President, for the information of Senators, I ask unanimous consent that the article from the New York Times about Abdul Rahman Pazhwak be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times]

AFGHAN EX-ENVOY SUPPORTS REBELS

(By Michael T. Kaufman)

NEW DELHI, MARCH 30.—An Afghan diplomat who served as ambassador to London, New Delhi and the United Nations declared himself today in support of the rebels in his country, which he fled a week ago.

The diplomat, Abdul Rahman Pazhwak, who had been president of the General Assembly during the Middle East crisis of 1967, said that while he was 63 years old and suffering from a stomach ulcer, he was eager to travel anywhere to foster unity among the competing guerrilla groups and to solicit foreign assistance to pressure Moscow to withdraw its occupying forces from Afghanistan.

Mr. Pazhwak had been recalled from his last post as Ambassador to London at the time of the original coup that brought the first of three Marxist governments to power. He said he was kept under house arrest until Babrak Karmal was swept into the presidency in the wake of the Soviet intervention 27 months ago. "Since then I have been in retirement in Kabul," said the diplomat, who was also once president of the United Nations Commission on Human Rights.

Mr. Pazhwak said he had been invited several times by Mr. Karmal to participate in his Government but said that he has refused. "When Russians occupied my country I thought it was my duty to join my people in their struggle in any way that I possibly could. As soon as I was able to leave my sick bed I decided to find ways to join the freedom fighters," he said.

FAMILY LEFT IN AFGHANISTAN

He explained that he was able to obtain a visa to come to India for medical treatment but that he had no intention of returning to the home where he has left his wife and three brothers. "Obviously, I weighed the risks of leaving them before I came," he said.

Mr. Pazhwak, who is the most prominent former Afghan official to have made his support for the rebels public, said that while he belonged to no particular resistance group he had been in constant contact with Islamic rebels while in Kabul. He said he believed that the strength of the ruling party had decreased from 60,000 to less than 30,000 after the Soviet intervention, and he estimated that close to 40 per cent of the leadership "including many with good positions," maintain their own links with the guerrillas.

According to the former diplomat, the Russians only maintain control of the country during daytime, and guerrilla resistance is being maintained. He said that the recent party conference was derailed by resistance activity and by deep splits within the ruling party. He said that 18 delegates to the conference were killed in separate attacks by the Islamic guerrillas, and he named the president of Kabul University, its chief administrator and three professors as having been among the victims. Furthermore, he said that the ending of the congress after two days instead of its full six-day schedule was proof of its failure.

Meanwhile, Western diplomats said that four university staff members were reportedly killed in what appeared to have been political attacks. The diplomats said that three professors had been shot to death, although it was unclear whether the assailants were members of another Marxist faction or Islamic guerrillas. The diplomats also said that their sources in Kabul insisted that Azia Ur-Rahman Sayedi, the president of Kabul University, had been killed; there were some reports that he had been shot and others that he had been poisoned. Like Mr. Pazhwak, the diplomats reported that it now appeared certain the ruling party's congress was suddenly curtailed and ended in disarray.

He said he had devised his own plan for resolving the situation. It calls for the convening of an international conference on Afghanistan that would include the five permanent members of the United Nations Security Council—the United States, Britain, France, the Soviet Union and China—as well as the countries that border Afghanistan and perhaps other interested countries such as India. He said the purpose of the conference would be to establish a new Government in Kabul through United Nations-supervised elections.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of April 1, 1982, the Secretary of the Senate, on April 5, April 7, and April 12, 1982, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on April 5, April 7, and April 15, 1982, are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of April 1, 1982, the Secretary of the Senate, on April 5, 1982, received a message from the House of Representatives stating that the Speaker has signed the following enrolled bill and joint resolutions:

S. 2333. An act to amend section 209 of title 18, United States Code, to permit an officer or employee of the U.S. Government, injured during an assassination attempt, to receive contributions from charitable organizations;

S.J. Res. 67. Joint resolution to establish National Nurse-Midwifery Week;

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month"; and

H.J. Res. 435. Joint resolution providing for the designation of April 12, 1982, as "American Salute to Cabanatuan Prisoner of War Memorial Day".

Under the authority of the order of the Senate of April 1, 1982, the enrolled bill and joint resolution were signed by the President pro tempore (Mr. THURMOND) on April 5, 1982.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on April 5, 1982, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 2333. An act to amend section 209 of title 18, United States Code, to permit an officer or employee of the U.S. Government, injured during an assassination attempt, to receive contributions from charitable organizations;

S.J. Res. 67. Joint resolution to establish National Nurse Midwifery Week; and

S.J. Res. 102. Joint resolution to authorize and request the President to designate the month of April 1982 as "Parliamentary Emphasis Month."

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of April 1, 1982, the following reports of committees were submitted on April 8, 1982:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 347: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1233.

By Mr. TOWER, from the Committee on Armed Services, without amendment:

S. Res. 360: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2248; referred to the Committee on the Budget.

By Mr. ROTH, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 854) to promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operations of the U.S. missions abroad (Rept. No. 97-329).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TOWER, from the Committee on Armed Services, with an amendment in the nature of a substitute and an amendment to the title:

S. 2248. A bill to authorize appropriations for fiscal year 1983 for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes (Rept. No. 97-330) (together with additional views).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Tony E. Gallegos, of California, to be a member of the Equal Employment Opportunity Commission, for the remainder of the term expiring July 1, 1984.

By Mr. ROTH, from the Committee on Governmental Affairs:

Joseph Robert Wright, Jr., of New York, to be Deputy Director of the Office of Management and Budget.

THE NOMINATION OF JOSEPH ROBERT WRIGHT, JR.

The Committee on Governmental Affairs, to which was referred the nomination of Mr. Joseph Robert Wright, Jr. to be the Deputy Director of the Office of Management and Budget, having considered the same, reports favorably thereon and recommends that the nomination be confirmed subject to the nominee's commitment to respond to requests to appear and testify before duly constituted committee of the Senate.

SUBMISSION OF NOMINATION

The nomination of Joseph Robert Wright, Jr. to be Deputy Director of the Office of Management and Budget was received by the Senate on March 25, 1982. The nomination was subsequently referred to the Committee on Governmental Affairs.

EDUCATION AND EXPERIENCE

Mr. Wright attended the Cascia Hall Prep School from 1950 to 1956. After graduating, he studied at the Colorado School of Mines and received a B.S. in Petroleum Engineering in 1961. He then continued his advanced education at Yale University, and in June of 1964 he was granted a Masters degree in Industrial Administration.

After earning his degree from Yale, Mr. Wright spent two years in the United States Army. Then, in 1965 he became a Vice President of Booz, Allen and Hamilton in New York City. The nominee remained in that position until 1971.

At that time Mr. Wright commenced his public service career. First, he held the position of Deputy Director of the Bureau of the Census from 1971 to 1972. Mr. Wright then moved to the Department of Commerce to become the Deputy Director of the Social and Economics Statistics Administration. After a year in that position, he transferred to the Department of Agriculture to become the Assistant Secretary for Administration. He remained in that capacity until the end of the Ford Administration in 1976.

After that period of government service, Mr. Wright left Washington to become the President of Citicorp Retail Services, a wholly owned subsidiary of Citicorp. In 1981 he returned to the government as the Deputy Secretary of the Department of Commerce. He is presently serving in that capacity.

COMMITTEE ACTION

Under procedures established by the Committee for considering nominations, a detailed biographical and financial information questionnaire was submitted to Mr. Wright. The Committee also requested that the nominee respond to pre-hearing questions in writing. These questions concerned both substantive policy matters relating to the mission of the Office of Management and Budget and specific actions Mr. Wright intends to take as the Deputy Director of that agency. Both the biographical and financial information, and the responses to the pre-hearing questions are appendices to this report. It is the policy of the committee that a nominee's financial disclosure statement is not reproduced or published as a part of the hearing record. However, this information is retained in the Committee offices for inspection by the public.

Committee procedures call for an independent review of a nominee's background. This includes a review of any investigative reports compiled concerning the nominee, including the Federal Bureau of Investigation's summary report on the background of Mr. Wright and an interview with him. All of these requirements were met during the Committee's investigation, and a confidential staff report, which concluded that no further investigation is necessary, was filed with the Chairman and the Ranking Minority Member and made available to all other members of the Committee.

On March 30, 1982, Mr. Wright appeared before the Committee on Governmental Affairs to testify on his appointment to be Deputy Director of the Office of Management and Budget. Mr. Wright was introduced to the Committee by the Junior Senator from Oklahoma, Senator Nickels.

COMMITTEE RECOMMENDATION

Based on its review of Mr. Wright's responses to the biographical and financial questionnaire, the FBI investigative report, the responses to the pre-hearing questions, personal interview with the nominee, and the testimony and responses to questions at the hearing itself, the Committee believes that Mr. Wright is well qualified by reason of education, experience and integrity to be the Deputy Director of the Office of Management and Budget.

ROLLCALL VOTE IN COMMITTEE

The Chairman polled the Committee on March 31, 1982, to recommend that the nomination of Mr. Wright to be Deputy Director of the Office of Management and Budget be confirmed. The response was unanimous.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. Name: Joseph Robert Wright, Jr.

2. Address:

Current: 3043 P Street, NW., Washington, D.C. 20007.

Mailing: Deputy Secretary, Department of Commerce, Washington, D.C. 20230.

3. Date and Place of Birth: 9/24/38, Tulsa, Oklahoma.

4. Marital status: Legally separated, Elizabeth Perry Wright.

5. Names and ages of children: Tiffany Wallace Stowell, 16.

6. Education:

Yale University—1961-63, MIA, 1964.

Colorado School of Mines—1956-1961, BS, 1961.

Cascia Hall Prep School—1950-56, High School, 1956.

7. Employment Record:

Deputy Secretary, Department of Commerce, 1981-Present.

President, Citicorp Retail Services, NYC, 1976-1981.

Asst. Sec./Admin., USDA, Washington, D.C., 1973-1976.

Dep. Dir./SESA, DOC, Washington, D.C., 1972-1973.

Dep. Dir./Bureau of Census, Washington, D.C., 1971-1972.

VP, Booz, Allen & Hamilton, NYC, 1965-1971.

U.S. Army, Washington, D.C. 1963-1965.

8. Government Experience:

Deputy Secretary, DOC, Washington, D.C., 1981-Present.

Asst. Sec./Admin., USDA, Washington, D.C., 1973-1976.

Dep. Dir./SESA, DOC, Washington, D.C., 1972-1973.

Dep. Dir./Bureau of Census, Washington, D.C., 1971-1972.

9. Business Relationships: Director, Anchor Gasoline Corp.

10. Memberships:

Young Presidents Organization.

Colorado School of Mines Alumni Association.

11. Political affiliations and activities:

Registered Republican.

Contributions to Republican Candidates made through family in Tulsa, Oklahoma, in Presidential and Congressional elections—made in name of Joe R. Wright, Anchor Gasoline Corp., or Canal Refining Corp.

12. Honors and Awards:

Young Presidents Organization.

Who's Who in World—1980.

Who's Who in America—1976, 77, 78, 79, 80.

Who's Who in Government—1975, 76.

Who's Who Among Students in Colleges & Universities—1963.

Outstanding Young Men in America—1965.

13. Published Writings: None Published.

14. Speeches: Four prepared speeches are attached—normally I departed substantially from the prepared speech but maintained the flavor and content.

15. Selection:

a. a. Do you know why you were chosen for this nomination by the President? For my background in business, management and government.

b. What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? This position at OMB requires a good knowledge of government operations, program levels, and budget process. It also helps in this environment to have a business background and some understanding of economics.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? All connections with Citicorp were severed when stock options were exerciesed on 3/31/81.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government. No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government services? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes, I plan to.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Financial arrangements

Partnership in Real Estate with Mr. Jerry McManis, Washington, D.C., listed below:

622/624 7th Street, N.E., Washington, D.C.

814 C St., N.E., Washington, D.C.

1130 W. Lafayette, Baltimore, Maryland.

345 Abercorn, Savannah, Georgia.

(The above are shown under B.1.b. (page 4)—all amounts shown are for my half only).

Deferred Stock Purchase Plan with Citicorp was exercised on 3/31/81.

Participation in 13 oil/gas wells listed under B.4 (page 5).

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Only family-ownership in oil/gas/coal company—Anchor Gasoline Corp./Canal Refining Company.

3. Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. None.

4. Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

As Deputy Secretary of Commerce, I testified on issues primarily concerning the Department of Commerce. Occasionally I would get into testimony on general government operations/activities.

5. Explain how you will resolve any potential conflicts of interests, including any that may be disclosed by your responses to the above items.

I will not be involved in any issues regarding the oil, gas or mining industries.

I will not participate in any particular official business in which a retained financial interest is involved.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, or charged or held by any federal, state or other law enforcement authority for violation of any federal, state county or municipal law, regulation or ordinance, other than a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? Not to my knowledge.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

RESPONSES TO PREHEARING QUESTIONS FOR THE NOMINATION OF JOSEPH R. WRIGHT, JR. TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

Question 1.—Is there any issue currently under consideration by the Office of Management and Budget from which you may have to disqualify yourself? If so, please explain.

I am advised by OMB Counsel that there are no issues now before OMB and none likely to arise that would require my disqualification under federal law. I will of course refrain from participation in any particular matter as defined by 18 U.S.C. Section 208. I intend, however, if confirmed, to go beyond the requirements of law in effecting my disqualification as to matters coming before OMB. Because of my financial holdings in the oil, gas and coal industries, I will disqualify myself from participating in major matters specific to the pricing, taxation or subsidization of oil, gas or coal. Such a step, I am advised by OMB Counsel and by the Office of Government Ethics, goes beyond the requirements of law.

Question 2.—How were you selected to be nominated to serve as the Deputy Director of the Office of Management and Budget? Were any conditions, expressed or implied, attached to your nomination?

I was asked by the President to serve as Deputy Director. No conditions, expressed or implied, were attached to my nomination.

Question 3.—Have you made any specific commitments with respect to the basic policies and philosophy you will seek to implement as Deputy Director? If so, please describe these commitments.

I have made no specific commitments regarding the basic policies and philosophy under which I will operate if I am confirmed as Deputy Director of OMB. I, of course, believe in and fully support the President's basic policies and philosophy, which I believe will reduce the size and burdensomeness of government, increase its efficiency and improve the private sector economy.

II. ROLE OF OMB

Question 1.—What do you consider to be the mission of OMB, and what will your basic responsibilities be as the Deputy Director?

The mission of OMB is not essentially different from what it has been for many years. Above all, OMB is a part of the Executive Office of the President, an arm of the presidency, and its primary mission is to see that the policies of the President are carried out. One of those policies, of course, is to reduce the growth of government spending, and the best-known role of OMB is that of examining in detail the budgets of the many agencies of government, seeking means of achieving lower levels of spending, and preparing the budget for the President's consideration. While OMB does make judgments and decisions on the budget, all such decisions, as you know, can be appealed to the President by the affected agency.

As a result of the Paperwork Reduction Act of 1980 and President Reagan's Executive Order 12291 OMB has major new responsibilities in the area of regulation. My answers to subsequent questions submitted by the Committee elaborate on that role.

OMB has other duties and missions as well, such as preparing executive orders, clearing legislative proposals and testimony by other agencies to assure conformity with the President's program, monitoring the complex system of grants-in-aid to state and local governments, and conducting government-wide activities in the field of management, among others.

My responsibilities as Deputy Director will include all aspects of OMB's activities, but I expect to devote particular attention to its management role.

Question 2.—Do you believe that the organization of OMB, as currently structured, is effective? Are there any areas or functions within OMB which you believe must be emphasized or to which you feel additional staff or resources must be assigned?

There has been a dramatic increase in OMB's workload over the last fifteen months. For those who are primarily budget analysts, this has included Reconciliation, two major revisions of the President's 1982 Budget and three Continuing Resolutions.

OMB has also assumed important new responsibilities in the area of regulatory reform—including review of roughly 2,700 government regulations and over 4,800 paperwork clearances in 1981.

The Management staff has compiled an impressive record in combating waste, fraud and abuse—including the establishment of the President's Council on Integrity and Efficiency, the debt collection program and an initiative to reduce unnecessary government publications and audio-visual materials.

This expanding workload has been accomplished with a steady reduction in staff. In comparison to 682 permanent positions allocated to OMB during the first year of the Carter Administration, OMB staffing levels in 1982 fell to 610. And we have proposed a further reduction in the President's Budget submission for 1983.

Despite the fact that OMB's workload has increased dramatically while its personnel resources have declined, we can still carry out our basic mission. We must continue to look for ways to economize and improve the operation of OMB, however. This will require some minor changes, but the basic OMB structure that exists today serves us well and deserves to be maintained.

III. MANAGEMENT ISSUES

Question 1.—As you know, one of the original reasons for creating the Office of Management and Budget from the old Bureau of the Budget in the early 1970's was to establish firmer management controls at the Federal level. Unfortunately, the activities directly concerning the budget alway seem to overshadow the management problems. In your view, what should be done to rectify this imbalance?

First, I think that we can agree that the initial phase of the Reagan Administration has been unusually active for the budget analysts in OMB. This Administration inherited a budget and set of economic conditions which required immediate, herculean, and sustained effort by the OMB leadership and staff to put the President's Program for Economic Recovery into budget proposals for the Congress to consider.

As the Congress completes action on 1982 appropriations and begins to consider the 1983 proposals, there will be a shift of attention to the management implications of the enacted budget. I would hope to be in a position to work on establishing a stronger management role for OMB—one which will exert firm leadership across-the-board using the leverage that can be obtained with a clearly defined management agenda and strong departmental leadership.

Question 2.—Should the Office of Management and Budget exert a system-wide effort to manage the Federal government or should its role be restricted to more narrowly focused special projects?

I believe that the Office of Management and Budget should pursue its Government-wide management responsibilities in the context of clearly enunciated overall goals and priorities. As a former program manager, assistant secretary for administration, and deputy secretary, I have first-hand knowledge of the confusion and frustration that can develop from an episodic or narrow ad hoc management focus from OMB.

The Office of Management and Budget should provide strong and sustained leadership with broad management objectives clearly understood by agency managers. Within this framework there may still be a need for the Office of Management and Budget to invest some of its resources in specific areas. For example, OMB has special efforts underway to improve Government-wide debt collection and travel management.

Question 3.—What are the appropriate activities of the management arm of OMB? Is a single office with both budgetary and management responsibility a realistic arrangement? Should we consider an alternative that would divide these two responsibilities between two separate offices?

The appropriate activities of the management arm of OMB can be summed up as the synthesis and communication of the President's management initiatives and priorities followed by the monitoring and evaluation of agency implementation of those initiatives and priorities. I am among those who believe that to function successfully, the management arm must be intimately associated with the President's resource planning and decisionmaking apparatus.

In my view it is not only realistic to maintain the arrangement of a single office with both budgetary and management responsibilities, it is preferable to the alternative that would divide the two functions. A separate management office would lose a great deal of effectiveness without the leverage afforded by its close association with the resource allocation process. If you separate the two parts, each would tend to try to replace the lost part. This could lead to a loss of efficiency and a larger Executive Office.

IV. FEDERALISM

Question 1.—Once a legislative plan is developed and passed by Congress, what part do you feel OMB should take in the transition to the "new Federalism?"

I see an active and continuing role for OMB in implementation of the Federalism Initiative, subsequent to Congressional passage of the 1982 block grants. This role would be largely coordinative and supportive of the agencies which are currently responsible for administering the affected programs. This would include review of agency implementing regulations, responding to financial management and funding issues, and providing comprehensive and timely information to state and local officials as they prepare for taking over their new responsibilities. We would also, for example, assist the agencies, which have direct responsibility for implementing the Federalism Initiative, in explaining and promulgating the procedures to be followed by states in the assumption of their new responsibilities.

OMB will discharge its responsibilities under the Paperwork Reduction Act and Executive Order 12291 to ensure that agency implementation rules and rulings conform to the intent of that Act, and meet the President's standards for well-justified rulemaking. At the same time, OMB staff will be available, as during last year's block grant implementation process, to assist agency staff and other Executive Branch personnel in ensuring that the public is adequately informed about the consequences of such monumental legislation.

Question 2.—OMB has a strong Intergovernmental Affairs Division which was responsible for many management functions in the area of federal assistance programs. That division has been severely reduced in size, and its functions are now unclear. What is your view of how this division should be structured? What role should federalism play in managing federal assistance programs?

On the basis of my initial discussions with OMB management and professional staff, it is my opinion that OMB continues to have a strong Intergovernmental Affairs Division. It is true that this Division has undergone a reduction in personnel over the last several months. This has been necessitated by the constraints on operating funds for the OMB institution as a whole.

It is my understanding that the role of the Division and its requisite level of personnel are currently under study. I intend to participate heavily in the final decisions with regard to this role and the allocation of personnel for the Division.

I can assure you that I am fully aware of the need for retaining a strong technical and managerial capability in this area as we move forward with restructuring and simplifying the current grant-in-aid system. The continued movement toward block grants and the ultimate transfer of responsibilities under the Administration's Federalism initiative also will place strong demands on OMB. We will ensure that adequate capability exists to meet this challenge.

Question 3.—Recently the Geographic Distribution of Federal Funds (GDFF) was terminated. This report had proven to be invaluable to states and localities as well as the Congress for it listed the state-by-state distribution of federal assistance programs. Do you plan to strengthen other information systems, such as FAADS, to ensure that adequate information is available on federal assistance programs?

Yes. We have already taken steps to strengthen the quality and timeliness of information systems which report data on grants-in-aid.

We have placed added emphasis on our efforts to improve the quality of FAADS reporting. This system coupled with the Federal Aid to States report done by Treasury and data collected by the Census Bureau provide a much more accurate source of information on federal assistance than did the GDFF. We are working closely with the agencies, states, and your own information staff office as FAADS is refined. In fact, the states are so interested in this system that 13 of them have volunteered to commit resources to analyzing FAADS reports for their states and provide periodic feedback to OMB and the agencies on problems and opportunties for improvement.

In addition, the Census Bureau will assume operational responsibility as the Executive Agent for FAADS on April 1. Census has already taken a strong interest in improving the system and, as you know, it brings valuable expertise to bear on information systems of this type.

We have also worked with the agencies and the states to improve the quality and timeliness of the Budget Information for States report which OMB provides to aid the states in their budget decision-making. This report includes a state-by-state distribution of federal funds for 45 of the largest formula grant programs. This year these programs accounted for over 80 percent of federal assistance funds requested in our budget. We managed to improve its timeliness so that it was available to the state officials for use in their executive-legislative budget deliberations.

V. FEDERAL BUDGET PROCESS

Question 1.—There is widespread agreement that the passage of the Congressional Budget and Impoundment Control Act of 1974 was a positive step. Do you agree? Do you have any suggestions on how the process could be revised to make it more effective?

The Congressional Budget and Impoundment Control Act was an important positive step for two basic reasons:

It provided a mechanism to require that the Congress consider individual spending legislation actions in the context of budget totals.

It provided an orderly mechanism for the executive branch to propose, and the legislative branch to act on the reservation of funds.

There is a wide range of suggestions on improving the process from the very technical to the fundamental. On the technical side, I would favor evaluating the impoundment reporting aspects of the Act to eliminate unessential paperwork and improve efficiency. More fundamentally, the Administration has supported bills to amend the Act to include controls on Federal credit, and the suggestion of making the first resolution binding rather than advisory has considerable appeal.

It is more difficult to respond to questions on improving the congressional budget resolution and appropriations process. What the Budget Act did essentially was to set up congressional procedures. These procedures have changed and evolved through time and can continue to do so without changes in the basic legislation. I agree with most observers that it would be desirable for the legislated schedule of budget actions to be maintained, but I also understand fully why this is very difficult to do.

In summary, I would be uneasy about attempting any wholesale revision of the process before making a greater effort to operate within the existing requirements. In any case, the Congressional budget process is entirely a Congressional prerogative and not a matter for the executive branch to change or reform.

Question 2.—There has been increasing discussion of the possibility of a two year budget process. Do you have any comments on the viability of a biennial Federal budget?

First, it is important to understand that it is an over-simplification to state that we have an annual budget. It is true that the President submits an annual budget under the Budget and Accounting Act of 1921. However, there has been an increased emphasis—particularly on the part of this administration—on treating the annual budget in a multi-year context.

Furthermore, in terms of legislative action, the budget is a combination of annual, bi-annual, and multi-year budgeting. At one extreme, some parts of the budget not only are subject to annual appropriations, but annual authorizations as well. At the other end of the spectrum, interest on the public debt is paid under a permanent, indefinite appropriation that is essentially no-year budgeting. Entitlement programs that are financed through trust funds may continue for long periods of time without legislative action. Fully-funded defense systems are an example of multi-year budgeting.

In the short run, given the tremendous challenge we face in slowing the momentum of Federal spending, the President and the Congress need to exert maximum effort on an annual basis. It is not clear at this point that biennial budgets would achieve more restraint than the current system, though from the Congressional perspective I can understand the attractions of a biennial budget in terms of savings of time and other advantages.

Question 3.—Would you be in favor of changes in the current impoundment process that would allow Congress to reject rescission proposals? Would you support any other changes in the impoundment process?

The law already provides the Congress with the power to reject rescission proposals by simply not acting on them within 45 days of continuous session. This 45-day congressional consideration period gives the Congress an opportunity to review the merits of the President's proposals. If a rescission bill has not been passed within the prescribed period, then funds must be made available for obligation. The Congress has used this procedure this fiscal year to reject two proposed rescissions of Air Force procurement funds and has rejected more than half of the rescissions proposed in the 1974–80 period.

The current process seems to be working reasonably well. Information is being reported to the Congress on the withholding of funds, and the Congress has been able to overturn impoundments as it desires. I would favor any changes that would eliminate unnecessary paperwork or improve reporting procedures.

Question 4.—The use of reconciliation last year has been criticized by some as usurping the prerogatives of the Congress. Do you believe a revision in the guidelines affecting reconciliation is warranted?

Reconciliation did not usurp the prerogatives of the Congress because it was the Congress itself that established the mechanism and rules by which reconciliation was achieved. Under the circumstances of a dramatically deteriorating economy and a budget that was out of control, the process was clearly justified.

As the Director has stated in testimony before this Committee, we need to learn from last year's experience. For example, if major authorization bills are up for renewal, it may be desirable to follow conventional procedures and not include them in the reconciliation process. In addition, the inclusion of dollar spending limits in the reconciliation bill, in retrospect, probably made the bill unduly complex and unnecessarily redundant with the appropriations process.

However, I can see considerable future value in a reconciliation bill of more limited scope than what was proposed last year. In particular, experience would indicate that reconciliation may be the only effective means of achieving reform of entitlement programs.

Question 5.—What would you consider the proper budget treatment of "off budget" agencies? Should they be put back "on budget", or should their current budget treatment continue?

During the past year, OMB has emphasized repeatedly that it is the total drain on the Nation's capital caused by Federal activity that is important. This includes taxes to finance the on-budget activities and the off-budget activities, and Federal claims on credit markets. Viewed in this context, placing the off-budget activities on-budget would have no real effect unless it resulted in reduced Federal activity. In that regard, I am concerned that activities that are financed outside the official budget totals tend to escape some of the scrutiny they would otherwise receive.

Most off-budget outlays result from lending activities, largely conducted through the Federal Financing Bank. The FFB's outlays do not come from programs that the FFB operates itself. Rather, the FFB finances lending programs within the Government by purchasing their debt securities or purchasing obligations that they have guaranteed. The operation of these programs remains both legally and administratively with the agencies that borrow from the FFB or provide the guarantees. Therefore, the Administration's emphasis is on controlling them through the credit budget. In this way, these credit programs are controlled at their source, rather than through the FFB.

The significant non-credit activities are the Postal Service and the strategic petroleum reserve account. In the case of the Postal Service, the subsidy to the Service is included as an on-budget item and, therefore, it is not primarily a fiscal issue. As you know, the Administration did not propose that financing of procurement for the strategic petroleum reserve be excluded from the budget, but we have deferred to the Congress on this matter.

Question 6.—Proposals have been offered which would subject Federal credit activities and Federal regulatory compliance costs to more formal discipline under the budget process. What is your view of the desirability of requiring a credit budget and a regulatory budget?

Requiring a credit budget and a regulatory budget are two very different matters.

OMB has developed an effective and detailed structure for the credit budget covering direct Federal and Federally-guaranteed lending activity. The programs and accounting systems involved are understood to an increasing degree by the Congressional Budget Office and the appropriate Congressional Committees. I would strongly support further congressional action to strengthen the credit budget concept and further integrate it into the overall congressional budget process. The Administration continues to review credit programs with great care and submit to the Congress the legislative language necessary to maintain adequate constraints on Federal credit activity.

A regulatory budget is conceptually much more difficult to develop and is impractical at this time in a comprehensive sense. As you know, OMB has undertaken a major effort to review regulatory activities by Federal agencies in order to make sure that the costs to the private sector are fully justified. In some cases these costs are relatively clear and can be aggregated, just as direct budget costs are. However, looking at Federal regulations across the whole spectrum of the economy, it is not conceptually possible at this time to establish sufficiently precise totals on the net cost of regulation.

While a regulatory budget has many appealing aspects, in practice it would be exceedingly difficult to implement. For example, there would inevitably be disputes about the cost estimates for any given regulation. Thus, while the regulatory budget should continue to be studied, we currently have no plans to implement one.

In connection with this question, it should be noted that the policies adopted under Executive Order 12291 are proving to be effective in disciplining the federal regulatory process and controlling regulatory costs. In many ways, the approach adopted by the Executive Order is preferable to a regulatory budget.

Question 7.—Over three quarters of the Federal budget is referred to as "uncontrollable" in any given year. As you know, this fact greatly restricts the ability of OMB to direct Federal budget priorities. How do you feel we can gain control over these "uncontrollables?"

I do not accept the conventional definition of "relatively uncontrollable outlays." Obviously, outlays from legally binding contracts and other commitments, as well as payments for interest, are ultimately uncontrollable as the payments come due. However, so-called relatively uncontrollable outlays also include entitlement programs and other mandatory spending, such as commodity price supports. Last year's reconciliation bill was a dramatic demonstration that these "uncontrollable" programs can be controlled. I anticipate that the Administration's entitlement reforms that are before the Congress this year will provide another concrete example of controlling these programs.

VI. REGULATORY REFORM

Question 1.—What is your opinion of the legality and effectiveness of Executive Order 12291, which gives OMB oversight authority of the regulatory activity of the executive agencies?

Executive Order 12291 establishes a set of economic principles and procedures to guide the formulation of regulatory policy within the framework of existing law. If a statute expressly or by necessary implication precludes the consideration of benefits or costs or alternatives by an agency during its rulemaking, then those provisions of Executive Order 12291 requiring such consideration would not apply. If a statute or a court order establishes a date for a rulemaking action, then Executive Order 12291 can't delay that action. In other words, if Congress or the Courts have spoken on a matter, then the Executive Order process will conform to that expression. The entire function of the Order it to ensure that the discretion delegated to regulatory officials by Congress is exercised in an economical and efficient manner. This is quite clearly an appropriate exercise of the President's constitutional obligation to see that the laws are faithfully executed.

The purposes of the Executive Order are to control the growth of regulation and to ensure that individual regulations are well-reasoned and economically sound. I believe the Executive Order has been effective. While most of the regulations submitted to OMB for review in 1981 were found consistent with the Executive Order as submitted, the discipline imposed by the Order's policies and procedures has resulted in a substantial decline in the volume of regulatory activity. For example, the number of final regulations published in the Federal Register from February through December 1981 was 21 percent lower than during the same period in 1980. The number of proposed regulations declined by one-third. The recent vote on the Laxalt-Leahy bill (94-0) is a vote of confidence in the Executive Order process in that the bill enacts major tenets of the President's regulatory relief program and specifically endorses executive office review of regulations.

Question 2.—Should this authority be extended to the independent regulatory agencies?

While independent regulatory agencies are exempt from the Executive Order, we believe they should be subject to similar requirements. The Laxalt-Leahy bill, which the Administration supports, contains cost-effectiveness provisions similar to those of the Executive Order and would apply to virtually all regulating activities of the independent agencies.

Question 3.—Do you believe that the activities of the President's regulatory relief task force should be both open and on the public record? Would you recommend any changes to better accomplish this goal?

At the present time, we advise members of the public that any factual information given to OMB and the Task Force during rulemaking should be transmitted to the agencies to be included in their rulemaking files. In addition, OMB staff are required to send copies of all materials sent to OMB from outside parties about regulations to files in a public reading room especially established for that purpose. All the correspondence submitted to the Task Force as a result of the Vice President's March 19, 1981 request for suggestions of existing rules to be reviewed are also available to the public. Thus, the activities of the Task Force are already open and public to a substantial degree. Any further changes with regard to the Task Force or OMB procedures should occur in the context of the regulatory reform legislation.

Question 4.—How has OMB's enforcement of the Paperwork Reduction Act been affected by the resource demands of Executive Order 12291? Does the Office of Information and Regulatory Affairs need more personnel and a higher level of appropriations to meet the demands of both the Paperwork Reduction Act and Executive Order 12291?

OMB's responsibilities under the Paperwork Reduction Act are complementary with its responsibilities under the Executive Order. They both seek to reduce the burden on the private sector of federal information collection and regulatory programs and to encourage agencies to seek the least burdensome alternative, consistent with law, to achieve public policy objectives. While the OIRA staff are kept very busy in fulfilling their responsibilities, an increase in personnel and appropriation is not needed at this time.

Question 5.—Under the Paperwork Reduction Act of 1980, OMB has the authority to approve requests from the agencies for reporting forms. It appears that this authority has been used to delay agency regulatory actions and has been, in this Administration, a tool to enforce its regulatory reform agenda as set forth in Executive Order 12291. Do you expect to change the manner in which the Paperwork Reduction Act will be implemented? Is it proper for the Act to be used to delay agency actions and enforce changes in agency regulations?

OMB does not use its authority under the Paperwork Reduction Act to enforce its regulatory reform agenda under the Executive Order. OMB's paperwork reviews are based on the statutory guidance provided in the Paperwork Reduction Act. The Act directs OMB to evaluate agency information practices to determine their adequacy and efficiency, and to determine whether the collection of information by an agency is necessary for the proper performance of its functions will have practical utility for the agency.

Question 6.—Do you feel that delays in the development of regulations to implement statutory mandates could be further minimized so that threats to human and safety could be lessened?

Any regulation that responds to an emergency situation—for example, any situation that poses an imminent threat to health and safety—is exempt from the Executive Order's procedures. In other situations, the requirements of the Order—essentially that regulations be well-reasoned and economically sound—may increase the time needed to develop a regulation. Of course, the alternative may be a poorly-reasoned, hastily-developed regulation that is unnecessarily burdensome and doesn't achieve its objectives, including health and safety objectives.

OMB has worked very hard to ensure that its procedures under the Executive Order do not result in delays. For the vast majority of regulations submitted to OMB, review under the Executive Order is completed in a matter of days.

VII. GOVERNMENT REORGANIZATION

Question 1.—I know that you have represented the Administration in the development of the Department of Energy reorganization proposal. Will you and your office have a continued role in this effort once you have moved to OMB?

As you know, OMB has overall responsibility within the Executive Branch for reorganization proposals. Former Deputy Director Harper took an active role in the development of the DOE Proposal; I would expect to continue to participate in this effort in my new capacity.

Question 2.—Some government agencies, for example the U.S. Fire Administration, have been effectively reorganized by being "zeroed out" of the Federal budget. Is this use of the budget to reorganize government appropriate or should such reorganizations be carried out through submission of legislative proposals to abolish agencies?

The Federal Government has long operated under the two-stage process of authorizations and appropriations. The authorization process essentially establishes the kinds of activities the Federal Government may undertake. The appropriations process controls the levels at which these programs will be financed. It is, of course, typical for appropriations to be constraining in the sense that they do not permit programs to operate at the maximum possible level authorized. In fact, it is common for some activities that are authorized to remain completely unfunded. Therefore, when the President feels that an activity is of low priority, it is entriely appropriate that he recommend no appropriations for that activity, and for the Congress to respond as it sees fit.

VIII. OVERSIGHT OF GOVERNMENT

Question 1.—Waste and fraud in the management of federal programs will be a serious concern of the Government Affairs Committee during this session. How can OMB assist the Committee in its evaluation of federal mismangement? Do you have any ideas on administrative means which could be used by OMB to reduce fraud and inefficiencies in federal programs?

I believe that OMB can be of assistance to the Committee in its evaluation of federal mismangement and can develop effective administrative means for reducing fraud and inefficiencies in federal programs in two ways: (1) by continuing to work closely with and to support the efforts of the Inspectors General and the Assistant Secretaries for Management in the individual departments and agencies, and (2) by focusing its own attention and resources on the entire concept of improving management in government programs.

I would like to concentrate on strengthening the "M" in OMB by dealing with across-the-board management improvement as a continuing theme and major OMB responsibility. OMB already is working on several projects in this area that are having positive results. For example, I understand that OMB has active projects in audit follow-up and internal control that to my mind represent positive administrative means to get at the systems problems that produce fraud and inefficiencies in federal programs.

Question 2.—Do you plan to take any steps to curb wasteful or inappropriate consulting contracts and procurement?

Yes. We plan to closely monitor the effectiveness of recent OMB initiatives to curb any inappropriate use of consulting contracts by Federal agencies. These initiatives resulted in a $162 million reduction in consulting and related services during FY 1981, and we anticipate an additional $500 million reduction in FY 1982. Actual expenditures will be increased by 3 percent when comparing FY 1981 and FY 1983 data—but that reflects a real decrease of 10 percent in constant FY 1981 dollars.

OMB's current initiatives to further tighten management controls over consulting and related services contracts include the development of additional guidelines. We are currently analyzing public and agency comments received on drafts published in the Federal Register.

We plan to monitor the implementation of a number of actions we have taken to curb waste in procurement; including:

A directive to agencies to reduce wasteful end of year spending.

A requirement that agencies develop advance procurement planning procedures.

The development of training material in ethics and standards of conduct for procurement personnel.

The halving of procurement of high vulnerability items such as furniture and other equipment and publications until agencies submitted detailed plans.

We currently have underway the development of:

Job performance and training materials for auditors and investigators in detection and prevention of waste, fraud, and abuse in procurement; and

An internal control for procurement guidelines as part of OMB Circular No. A-123 on internal controls.

Question 3.—As you know, this Committee has been actively involved in the issue of travel management. I was quite pleased with the work of the Interagency Travel Management Improvement Project. Will you continue the efforts to control federal travel expenditures?

Yes. I have already received a briefing by OMB staff on the progress being made by the OMB-led task force to implement the recommendations of the Interagency Travel Management Project.

Last July, after the President reviewed the report on strengthening Federal travel management prepared by the Project staff, he directed the lead agency heads to implement the study recommendations, with overall coordination by the Director of OMB.

The Travel Management Improvement Group, created last August, is chaired by OMB and consists of representatives of the four agencies with major travel policy authorities—State, Defense, GSA, and Office of Personnel Management. The Group has been working since last September on ways to improve control and management of agency travel expenditures. The improvements under consideration, as I understand it, will require legislative as well as administrative actions and are laid out over an implementation period of up to a year in length.

Question 4.—It has been more than thirty years since the Congress passed the Budget and Accounting Act in 1950, but 36 percent of all agencies are not yet in compliance with this Act, and these agencies control over 50 percent of the federal budget. What initiatives do you plan to take to insist on compliance with this Act?

We are going to press for compliance with the Act. As you know, it requires the General Accounting Office to:

Establish accounting principles after consultation with OMB and Treasury and in consideration of the needs of executive agencies;

Cooperate with agencies in developing accounting systems; and

Approve accounting systems that are adequate.

The GAO grants approval of accounting systems in two phases:

Principles and standards, and

Systems design.

With regard to the first phase, principles and standards, only one percent of agency systems remain unapproved. However, only 64 percent of systems designs have been approved, and this is an unacceptable situation.

Comptroller General Bowsher recently launched a review of ways to streamline the approval process. We are meeting with him and other members of the Joint Financial Management Improvement Program next month to discuss this issue and other financial priorities. At that time, we hope to agree on an appropriate role that OMB can play in expediting the review and approval process. It may be that we can build upon the recent OMB experience in updating and approving the fund control systems of the major departments and agencies under the authority of the Antideficiency Act.

Question 5.—As head of the President's Council of Integrity and Efficiency, on what areas do you intend to focus the Council's resources?

The President's Council on Integrity and Efficiency was created to strengthen the Inspector General Program and to coordinate and implement Government policies concerning integrity and efficiency in Federal programs. It has an active program underway that I believe is completely consistent with these purposes. I plan to chair the Council in a manner that will continue to support these purposes.

The President's Council, of course, was created without an independent source of resources. Its resources are only what the members provide. So far, I understand the members have been very supportive of all the Council's interagency and government-wide projects. I believe that this support will continue and should be focused, as it currently is, on plans for coordinated government-wide activities; standards for management, operation, and conduct of IG activities; development of a well-trained, highly skilled corps of auditors and investigators; and interagency projects. I am very pleased by the Council's ability to be active and effective on the interagency front while still recognizing and respecting the importance of the individual IG's autonomy and objectivity. I believe this is a sound approach.

Question 6.—Do you believe that RIFs are an effective means to reduce both the size and waste of the Federal Government?

RIFs are certainly effective in the sense that they do get reductions accomplished when attrition would take too long. However, a RIF also is a very clumsy and expensive method of making reductions. For example:

A RIF of 100 employees may affect several times the initial number because of "bumping" and "retreat" rights.

An employee who is qualified "on paper" for another job may not really be well suited for that position.

The pay-saving features of the RIF process mean that people who get bumped down to lower-level positions must still get their original salaries for an extended time period.

Because seniority is given heavy weight, RIFs hit young people, women and minorities with disproportionate impact.

Furloughs may be a viable alternative where the agency problem is a short-term one, such as funding to get through the fiscal year. However, when the problem requires permanent personnel reductions, a reduction in force is required if attrition, even in combination with furloughs, cannot be counted on to achieve the objective.

I want to stress that the basic Administration objective of reducing the size of our government's workforce is a desirable one, which is generally supported by the Congress and the public. When attrition would be too slow, and the RIF process is the only practical way to reach reduced staffing levels in a reasonable time, the process now in the law will have to be used.

I also want to stress that this Administration is especially concerned that everything possible is done to assist displaced Federal employees. We are disturbed by recent allegations that some agencies are not doing as much as they should. If personnel offices are overwhelmed by other work associated with RIFs, we are urging that agencies set up *managerial* task forces to counsel and assist employees who are being RIFed and to aid in their outplacement.

IX. RELATIONS WITH CONGRESS

Question 1.—Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

Question 2.—Are you willing to provide such information as is requested by such committees?

I do not foresee any situation in which I would not be willing to provide such information in response to any reasonable request of a duly constituted committee of the Congress.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. ABDNOR, Mr. FORD, and Mr. BOSCHWITZ):

S. 2357. A bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCLURE (by request):

S. 2358. A bill to authorize the Federal Energy Regulatory Commission to collect fees and charges for services, benefits, privileges, and authorizations granted in administering its regulatory programs, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2359. A bill to amend section 6 of the Colorado River Storage Act (70 Stat. 109); to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself and Mr. HARRY F. BYRD, JR.):

S. 2360. A bill to provide that States may enter agreements with the United States under which the State will retain a portion of the Federal unemployment tax for the purposes of administering the unemployment compensation program and the employment service program as currently provided under Federal law, to allow States to retain unemployment compensation funds in State-managed funds, and for other purposes; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. GARN) (by request):

S. 2361. A bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ARMSTRONG (for himself, Mr. PROXMIRE, Mr. KASTEN, Mr. SCHMITT, and Mr. CHAFEE):

S. 2362. A bill to abolish the Synthetic Fuels Corporation; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (by request):

S. 2363. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Res. 361. A resolution to commemorate the 100th anniversary of the organization of the E. Romero Hose and Fire Co. of Las Vegas, N. Mex.; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. ABDNOR, Mr. FORD and Mr. BOSCHWITZ):

S. 2357. A bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities; to the Committee on Banking, Housing, and Urban Affairs.

PROHIBITION OF CERTAIN EXPORT RESTRICTIONS

● Mr. LUGAR. Mr. President, I rise today to bring to the attention of the Senate a matter of utmost importance to this Nation's agricultural sector and to the foreign nations which depend upon the United States to supply a major portion of their food needs. The legislation that I am introducing would prohibit the Government of the United States from imposing restrictions upon the export of agricultural commodities which would interfere with valid export contracts, provided the contract was entered into prior to the time such export restrictions are imposed.

As a result of continuing uncertainty following a mistaken foreign policy decision several years ago, nations which relied solely upon the United States for an uninterrupted flow of food products are now seeking alternative suppliers of grain. This has ultimately led to greater competition for U.S. exporters from other grain-producing countries such as Brazil, Argentina, Australia, and Canada.

Mr. President, our farmers are the most efficient in the world and can compete favorably with any other country if given a fair chance. However, our farmers are severely disadvantaged by a market that is not operating freely because our export sales are threatened by uncertainties in the current trade environment. These uncertainties are creating a situation in which buyers and sellers of agricultural product do not have confidence that existing contracts will be honored.

At the moment, we are experiencing the worst of all possible situations. The Soviet Union continues to buy grain freely on the world market. Yet the constant threat of a U.S. grain embargo has helped to drive farm prices down substantially. It is not the Soviet Union which suffers because of this uncertainty; it is the American farmer who suffers.

We must make an irrevocable commitment to our trading partners that the United States will honor all export contracts that are entered into in good faith. We must protect the right of our farmers and grain exporters to sell our farm products abroad. To do otherwise destroys the credibility of the United States as a reliable supplier, which in turn threatens future export sales and depresses the income of farmers.

Let me remind my colleagues of the tremendous contribution that our farm exports make to this Nation's economy. Since 1970, the value of U.S. agricultural exports has increased more than sixfold, reaching $44 billion in 1980-81. Export volume has more than doubled in these same years. Our agricultural trade balance has been in surplus in each of these years, rising from $1 billion in 1970 to over $26 billion during the last fiscal year. This surplus helps to offset our chronic nonagricultural trade deficit, a deficit which exceeded $50 billion last year.

Agricultural exports provide about one-fourth of U.S. farm income and the harvest from almost two-fifths of our cropland is sold in foreign markets. Agricultural exports also generate jobs—more than 1 million people are working full time in farm-export-related jobs. Beyond this, agricultural exports generate additional business activity: Every dollar that is returned to the United States from farm exports is more than doubled in business activity in the general economy.

I am well aware that an argument can be made that this legislation will hamper the President's ability to carry out American foreign policy. I reject this view. I do not believe that any historical evidence indicates that agricultural embargoes are an effective tool of foreign policy. Agricultural embargoes do not provide the kind of sanction that deters foreign aggression.

Former President Carter's grain embargo against the Soviet Union provides a good case in point. Not one Soviet soldier was removed from Afghanistan because of President Carter's grain embargo. After a brief period of adjustment, the Soviet Union proceeded to supply its grain needs from other exporting nations. Who was hurt by the U.S. embargo? Surely not the Soviet Union. Our policy ought to be one in which we attempt to earn as much as possible from our grain exports. If the Soviet Union wishes to purchase food because it cannot grow enough on its own, let us extract the highest price possible and compel the Soviet Union to utilize its scarce foreign exchange reserves.

It simply cannot be in our national interest to give the President authority to do what it is unwise to do. An agricultural embargo does not represent a firm stand against foreign expansionism; it represents a bankrupt policy in which difficult policy decisions have been avoided.

We must facilitate, not impede, a vigorous agricultural export policy. This legislation is an important first step in achieving this objective. It is a step which will not add a single dollar to the Federal budget. I urge my colleagues to join with me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Government of the United States shall not impose any restrictions upon exportation of agricultural commodities which interfere with valid contracts for the exportation of such commodities entered into prior to the date such export restrictions are imposed and which provide for the delivery of such commodities for exportation within 180 days of the date such export restrictions are imposed.●

By Mr. McCLURE (by request):

S. 2358. A bill to authorize the Federal Energy Regulatory Commission to collect fees and charges for services, benefits, privileges, and authorizations granted in administering its regulatory programs, and for other purposes; to the Committee on Energy and Natural Resources.

COLLECTION OF CERTAIN FEES BY THE FEDERAL ENERGY REGULATORY COMMISSION

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to authorize the Federal Energy Regulatory Commission to collect fees and charges for services, benefits, privileges, and authorizations granted in administring its regulatory programs, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Federal Energy Regulatory Commission, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Chairman of the Federal Energy Regulatory Commission be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Energy Regulatory Commission shall be authorized to collect charges and fees and to retain and use the moneys collected for its operating expenses as described in this Act.

SEC. 2. (a) DEFINITIONS.— For purposes of this Act—

(1) "adjusted costs" includes the anticipated direct and indirect costs to the Government of administering a program during a fiscal year minus fees anticipated to be collected for services or benefits rendered under the program during that fiscal year under section 2 of this Act or title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. § 483a);

(2) "natural-gas company" has the same meaning as that term has under section 2(6) of the Natural Gas Act (15 U.S.C. § 717a(6));

(3) "public utility" has the same meaning as that term has under section 201(e) of the Federal Power Act (16 U.S.C. § 824(e));

(4) "jurisdictional gas deliveries" means the total volume of natural gas that is sold by a natural-gas company to any person, except another natural-gas company, and excludes the natural gas that is sold to a person who later resells the natural gas in interstate commerce.

(b) ANNUAL CHARGES TO BE ASSESSED.—

(1) Each natural-gas company that has an effective certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. § 717f(c)), shall pay to the United States a reasonable annual charge in an amount fixed by the Commission to reimburse the United States for the adjusted costs of administering the Natural Gas Act (15 U.S.C. §§ 717 *et seq.*). The annual charge for each natural-gas company shall be computed based on its proportional share of the total jurisdictional gas deliveries during the previous fiscal year or on a method for apportioning the adjusted costs that the Commission determines to be fair and equitable.

(2) Each public utility shall pay to the United States a reasonable annual charge in an amount fixed by the Commission to reimburse the United States for the adjusted costs of administering parts II and III of the Federal Power Act (16 U.S.C. §§ 824-25r), except for the regulation of cogeneration and small power production under sections 201 and 210 of that Act (16 U.S.C. §§ 824 and 824i). The annual charge for each public utility shall be computed based on its proportional share of the kilowatt hours transmitted under interchange power agreements and the gross jurisdictional kilowatt hours sold by all public utilities during the previous fiscal year or on a method for apportioning the adjusted costs that the Commission determines to be fair and equitable.

(3) Each common carrier subject to regulation by the Commission shall pay to the United States a reasonable annual charge in an amount fixed by the Commission to reimburse the United States for the adjusted costs of administering the regulation of oil pipelines. The annual charge for each common carrier shall be computed based on its proportional share of the total jurisdictional volumes transported during the previous fiscal year or on a method for apportioning the adjusted costs that the Commission determines to be fair and equitable.

(c) FEES TO BE ASSESSED.—In addition to its authority under title V of the Independent Offices Appropriations Act (31 U.S.C. § 483a), section 10(e) of the Federal Power Act (16 U.S.C. § 803(e)), and section 2(b) of this Act, the Commission may fix and collect fees and charges for applications, requests, grants or approvals of licenses, abandonments, curtailments, exemptions, rate or tariff authorizations, or any other authorization under its jurisidiction to reimburse the United States for the services or benefits rendered by the Commission under its regulatory programs and for costs incurred by the Commission to serve an independent public interest. Fees and charges under this section shall be computed based on methods that the Commission determines by rule to be fair and equitable.

(d) WAIVER.—The Commission may, by rule or order, waive all or part of an annual charge or fee assessed under this Act.

SEC. 3. When so specified in appropriations acts, any monies collected by the Commission may be retained and used for operating expenses when these monies are not earmarked for specific programs of other departments and agencies, notwithstanding the requirement in other law that monies be paid into the Treasury as miscellaneous receipts.

SEC. 4. This Act takes effect on October 1, 1982.

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, D.C., March 10, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is proposed legislation "to authorize the Federal Energy Regulatory Commission to collect fees and charges for services, benefits, privileges and authorizations granted in administering its regulatory programs, and for other purposes."

THE PURPOSE OF THE LEGISLATION

The purpose of the bill is to make clear the Commission's authority to reduce the costs of energy regulation to the taxpayer by recovering a greater share of those costs, in the form of annual charges and user fees, from energy companies that operate under Commission license or authorization. The Commission now has explicit authority to impose annual charges on hydropower companies under section 10(e) of the Federal Power Act (16 U.S.C. § 802(e)). The proposed bill would give it comparable authority over natural gas companies, electric utilities and oil pipelines.

Title V of the Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. § 483a) states the sense of Congress that regulatory licenses, privileges or other authority should be self-sustaining to the fullest extent possible, and, to that end, impowers agencies to collect fees and charges. However, the Commission's fees and charges under the IOAA have been challenged in the United States Court of Claims. These suits question the Commission's authority to recoup expenses associated with contested hearings, rulemakings, and other essential elements of the regulatory environment in which energy companies hold operating privileges. The proposed bill is designed to supplement the Commission's authority under the IOAA by specifying that the Commission can assess and collect annual charges and user fees to reimburse the United States for regulatory costs not otherwise recovered under existing law. The annual charge for each company would be computed on the basis of the company's share of total energy deliveries or sales in a fiscal year. Annual charges and user fees could also be based on other methods the Commission found fair and equitable. Similar authority to impose annual charges on regulated entities (apart from the Commission's own authority over hydropower companies) is now vested in the Securities and Exchange Commission under section 31 of the Securities Act of 1934 (15 U.S.C. § 78ee).

COST AND BUDGETARY DATA

Enactment of this legislation would cause no increase in the Commission's budgetary requirements. It would result in an estimated reimbursement to the United States of approximately an additional $30-40 million of the funds appropriated for this agency in the first year after enactment.

Sincerely,

C. M. BUTLER III,
Chairman.●

By Mr. McCLURE (by request):

S. 2359. A bill to amend section 6 of the Colorado River Storage Act (70 Stat. 109); to the Committee on Energy and Natural Resources.

LEGISLATION TO AMEND THE COLORADO RIVER STORAGE ACT

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend section 6 of the Colorado River Storage Act (70 Stat. 109).

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Colorado River Storage Project Act (70 Stat. 109) is amended by deleting the phrase "On January 1" in the fourth sentence and substituting in lieu thereof "On May 1".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 25, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "to amend section 6 of the Colorado River Storage Act (70 Stat. 109)".

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

The draft bill changes the date from January 1 to May 1 by which the Secretary is required to submit to the Congress the Colorado River Storage Act (Act) annual financial report. The change in the fiscal year-end date from June 30 to September 30 has made it difficult for the Department to comply with the due date for the report imposed by the Act. The report requires actual cost data for more than 30 participating projects in addition to the Storage Project as well as a considerable amount of interface between several Bureau divisions and regional offices and with the Department of Energy, Western Area Power Administration. Projections of costs and revenues must be determined in order to prepare Exhibit 5 of the report which reflects the historical and projected repayment of the reimbursable Federal investment and shows the rate of progress, year by year, in accomplishing full repayment. We believe the change from January 1 to May 1 will give us an adequate amount of time to prepare the report and forward it to the Congress in a timely fashion.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft legislation from the standpoint of the Administration's program.

Sincerely,

GARREY E. CARRUTHERS,
Assistant Secretary.●

By Mr. WARNER (for himself and Mr. HARRY F. BYRD, JR.):

S. 2360. A bill to provide that States may enter agreements with the United States under which the State will retain a portion of the Federal unemployment tax for purposes of administering the unemployment compensation program and the employment service program as currently provided under Federal law, to allow States to retain unemployment compensation funds in State-managed funds, and for other purposes; to the Committee on Finance.

INEQUITIES IN FEDERAL UNEMPLOYMENT TAX SYSTEM

Mr. WARNER. Mr. President. I rise today to introduce legislation which seeks to redress the current inequities in the Federal Unemployment Tax Act (FUTA), while at the same time insuring that States experiencing high unemployment have adequate Federal reserves in which to rely upon.

In recent years, Congress has been unable to target adequate administrative dollars to meet employment situations existing in individual States. The result has been that both Congress and the States are limited in their ability to develop solutions to the basic problems of providing employment services and adequate unemployment benefits.

This was most recently evidenced in the emergency supplemental appropriations bill Congress approved to offset the estimated 37-percent reduction in total employment security administrative funds—which resulted from congressional reductions in the fiscal year 1982 budget.

Currently, the combined State trust funds are $7 billion in debt, and in fiscal year 1983, this indebtedness is expected to rise to $13 billion. This debt is being offset through the infusion of Federal general revenue dollars.

To prevent the further erosion of this vital financial system, and to insure adequate safeguards for the administrative portion of FUTA, either legislative relief must come or next year an increase in the FUTA tax will be necessary to offset current financial losses. My legislation should prevent this from occurring, while at the same time affording States the realization of additional revenue for administrative programs and State trust funds.

Mr. President, my bill has four basic objectives. It provides a funding formula which should prevent the financial worsening of the combined State's trust funds. It retains the State/Federal partnership in meeting employment demands while at the same time reducing Federal oversight.

This legislation increases funding opportunities without increasing taxes. And it provides an equitable return of the employer's FUTA dollars for the operation of the employment services.

The time has come in which a change in the current funding structure would not only improve the system, but would also insure that individual State interests and needs are being met.

As you are aware, the Social Security Act of 1935 established a national unemployment insurance program. The Wagner-Peyser Act of 1933 established the employment service program. Funding for both programs was provided by a payroll tax on employers. The tax later became known as the Federal Unemployment Tax Act.

The current FUTA tax rate is set at an actual 0.7 percent, which employers pay on the first $6,000 in wages for each employee.

This tax is collected by the IRS, and sent to the Department of Treasury to finance the administration of each State's program for employment services, the extended unemployment account, and the Federal unemployment account—the amount repayable to States with depleted reserves.

The IRS uses an estimated 2,000 employees and between $25 to $45 million annually in FUTA resources to collect the tax.

The amount returned to each State for the administration program fund is determined by a complicated formula with more than 90 components, as established by the Labor Department.

Currently, 0.45 percent of the 0.7 percent FUTA tax is dedicated to States for their administrative programs. However, due to the Labor Department's formula, many States receive substantially less than this amount once it is returned to them by the Federal Government.

The first major component of my bill allows each State, at its option, to retain its own portion of administrative FUTA taxes. This differs from current law, which dictates that it be funneled through the Treasury Department, at the rate of return annually determined by the Labor Department.

Under this legislation, the total FUTA tax paid by the employer will remain the same. However, for States choosing to not continue participation in the current Federal program, many will retain a larger share of their original administrative FUTA taxes.

My legislation provides that 0.40 percent be dedicated to States collecting and administrating their own FUTA program, with the balance being sent to the Federal Government for the financing of the grants to State's fund, and the temporary and permanent Federal extended benefits account.

The 0.05 supplemental funding source—from 0.45 to 0.40 percent—will guarantee that adequate Federal funding for States with high unemployment remain available. This fractional percentage would also remain available on the Federal level for States whose tax base is inadequate to fund an employment assistance system.

An added attraction is that interest earned on the money retained by States would produce additional revenue for operation, an option current law does not provide.

Under this bill, participation in the program would be strictly optional. Any State wishing to opt out of the Federal FUTA system may do so. All current Federal requirements for State employment offices and services will be retained. The bill merely gives States an opportunity to run their own administrative programs, guaranteeing a 100-percent return on the administrative portion of the FUTA tax.

Mr. President, I ask that a computer analysis of my proposal be included in the RECORD. The data used is based on the Department of Labor's 1981 figures, and clearly shows the financial gains most States will realize under this proposal.

Additionally, there is a second component of this bill. This second section will allow States to manage and maintain their own unemployment insurance trust funds.

Under current law, States collect and deposit taxes earmarked for unemployment insurance into trust funds. However, the Federal Government controls all individual State trust fund accounts. Historically, Federal investments on these moneys have been less than 10 percent, while most States experience short-term interest on deposits in the 15- to 16-percent range.

This legislation will permit States to manage and maintain their own trust fund investments. As with the first section of the bill, this section is also optional to the States.

Should a State choose to manage its own trust fund, it will accrue several financial advantages over the current system—regardless of the percentage of unemployment in that State.

These include providing additional funds which would bolster the State's economy, resulting from the increased interest on investments. The higher interest yield will also bolster the financial solvency of the unemployment insurance trust funds. Additionally, improved collections could be achieved—it is estimated that $200 to $250 million currently goes uncollected.

The new State/Federal relationship provides for a clear division of responsibility through a signed agreement between the Department of Labor and the State selecting either/or both options: Collecting and managing the FUTA tax and the management of the State trust fund.

The Labor Department shall monitor the agreements with the States. Failure of a State to comply with the agreement shall, after proper administrative review, result in tax penalties for the State.

If a State fails to comply with the administrative provision of the agreement, a 0.3-percent additional tax would be added to the 0.7-percent FUTA tax. The U.S. Treasury would receive the additional 0.3 percent for deposit in the Federal trust fund.

The borrow and repayment procedures provided by title XII of the Social Security Act and the Omnibus Reconciliation Act of 1981 have not been modified. The ability of the States to borrow from the Federal unemployment account remains intact and unchanged.

Mr. President, the advantages of my proposal are clear. On an optional basis, it permits the States to manage their employment services previously dependent upon Federal appropriation and Department of Labor discretion.

This legislation provides new funding sources for additional revenue estimated to be between $525-$600 million previously not available to the States through improved FUTA collection, and increased interest on FUTA and benefit trust funds. Additionally, the bill provides for reduced Federal expenditures for administration, regulation, and payroll through the States collection of the FUTA tax.

The bill maintains a State/Federal relationship while giving the States flexibility in program operation, control, and long-range planning. It also provides for the continued 50-50 financing of the extended benefits program by the State and Federal Governments, while at the same time assuring funding stability and maintenance of effort for the employment service, unemployment insurance, and labor marketing information functions.

My legislation eliminates the duplicate tax collection on the employer by reducing the Federal Government collection of FUTA. It also reduces paperwork for the employer through joint filing of FUTA taxes and State's taxes with just one collection agent—the State.

Mr. President, since the beginning of this year I have been developing this legislation with a number of concerned individuals. These include Congressman BLILEY from the Third District of Virginia, Congressman WAMPLER from the Ninth District of Virginia, Governor Robb, and a bipartisan group of the Virginia State Legislature, and particularly the senior members of the Virginia Employment Commission, whose comments and suggestions have been invaluable. I extend a special thanks to all of them, and the many other interested parties from around the country who have assisted in this endeavor.

Mr. President, I urge my colleagues to support this legislation. Already it has been hailed as "the first spoke in the wheel of New Federalism". Support for this bill will give States the opportunity to increase their FUTA revenues and once again provide adequate employment services to workers and employers. It is time we do all we can to assist those who—through no fault of their own—find themselves unemployed.

I ask that my remarks and a copy of my bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATE ADMINISTRATION OF UNEMPLOYMENT COMPENSATION AND EMPLOYMENT SERVICE PROGRAMS

SECTION 1. (a)(1) Chapter 23 of the Internal Revenue Code of 1954 (the Federal Unemployment Tax Act) is amended by redesignating section 3311 as section 3310 and inserting after section 3310 the following new section:

"SEC. 3311. STATE ADMINISTRATION OF UNEMPLOYMENT COMPENSATION AND EMPLOYMENT SERVICE PROGRAMS.

"(a) STATE AGREEMENTS.—Any State which is willing and able to do so may enter into an agreement under this section with the Secretary of the Treasury and the Secretary of Labor under which—

"(1) the Governor of such State, or such State's legislatively designated agency, shall, acting as an agent of the Secretary of the Treasury, collect the tax imposed under this chapter on wages attributable to such State (as determined under section 3302(d)(2));

"(2) the State shall retain a portion of such tax collected equal to—

"(A) 0.40 percent of the total wages (as defined in section 3306(b)), with respect to which such tax was collected by such State; and

"(B) 60 percent of any penalty collected by such State with respect to such tax,

to be used by such State for administration of the State's unemployment compensation law and public employment offices, except as otherwise provided in subsection (o); and

"(3) the State shall promptly pay to the Secretary of the Treasury, to the credit of the Employment Security Administration Account in the Unemployment Trust Fund (established under section 901 of the Social Security Act), the remaining portion of such tax and penalties not retained by the State under paragraph (2).

"(b) USE OF UNEXPENDED FUNDS.—

"(1) Any funds (including any interest earned thereon) retained by a State in accordance with subparagraph (B) of subsection (a)(1) which are not expended by such State for administration of the State's unemployment compensation law or public employment offices shall be deposited by the State into such State's unemployment fund for use in payment of unemployment compensation.

"(2) Notwithstanding sections 3304(a)(4) and 3306(f) of this Code and section 303(a)(5) of the Social Security Act, funds retained by a State under subsection (a)(1)(B) may be deposited into the State's unemployment fund and subsequently withdrawn for purposes of administration of the State's unemployment compensation law or public employment offices.

"(c) SECRETARIAL APPROVAL.—

"(1) The Secretary of the Treasury and the Secretary of Labor shall enter into an agreement with any State under this section which is willing and able to do so unless—

"(A) the Secretary of Labor determines that such State does not have a State unemployment compensation law approved under section 3304 or that such law does not include the provisions set forth in section 303 of the Social Security Act and in sections 8 and 9 of the Act of June 6, 1933 (commonly known as the Wagner-Peyser Act), except that to the extent that the Secretary of Labor determines that any such provision is inconsistent with the provisions of this section, he may waive such requirement; or

"(B) the Secretary of the Treasury determines that the State is not able to properly collect and pay over the tax imposed under this chapter in accordance with the requirements of subsection (a).

"(2) The Secretary of Labor or the Secretary of the Treasury may refuse to enter an agreement under this section if he determines, within 90 days after a State requests to enter such agreement, that the State cannot meet any requirement of this section. The Secretary of Labor or the Secretary of the Treasury may declare a State to be in violation of an agreement entered into under this section if he determines that the State is not meeting any requirement of this section. Any such refusal or declaration shall be subject to administrative review by the Secretary making such refusal or declaration, and to judicial review, in the same manner as a determination made by the Secretary of Labor under sections 303 and 304 of the Social Security Act. In the case of a declaration of violation, the penalty provisions of subsection (f) may not take effect until after completion of such administrative review, and may not take effect until the beginning of the next taxable year beginning after completion of such administrative review. In the case of either a refusal or a declaration of violation, the burden of proof shall be on the secretary to show that the State cannot meet, or is not meeting, any requirement of this section.

"(d) PAYMENTS UNDER OTHER PROVISIONS OF LAW.—Any State having an agreement under this section shall not be eligible to receive payments under title III or title IX of the Social Security Act or under the Act of June 6, 1933 (commonly known as the Wagner-Peyser Act) for the purpose of administration of the State's unemployment compensation law or public employment offices.

"(e) EFFECTIVE DATE OF AGREEMENT.—Any agreement under this section shall become effective with the beginning of a taxable year and may not be terminated.

"(f) PENALTY FOR VIOLATION OF AGREEMENT.—

"(1) In the case of any State which is declared to be in violation of an agreement under this section, and such declaration becomes effective for any taxable year in accordance with subsection (c)(2), the total credits otherwise allowable under section 3302 (after applying the provisions of such section) for any employer subject to the unemployment compensation law of such State for such taxable year shall be reduced (but not below zero) by 10 percent of the tax imposed with respect to wages paid by such employer during such taxable year which are attributable to such State.

"(2) In the case of any State with respect to which such a declaration remains effective for more than one consecutive taxable year, the amount of such total credits shall be further reduced by an additional 10 percent of such wages for each such consecutive taxable year.

"(3) For purposes of paragraphs (1) and (2), the definitions and special rules set forth in section 3302(d) shall apply in the same manner as they apply to section 3302(c).".

(2) The table of sections of chapter 23 of such Code is amended by striking out the item referring to section 3311 and inserting in lieu thereof the following:

"Sec. 3311. State administration of unemployment compensation and employment service programs.

"Sec. 3312. Short title.".

(3) Section 3304(a)(4) of such Code is amended—

(A) by striking out "and" at the end of subparagraph (A);

(B) by inserting "and" at the end of subparagraph (B); and

(C) by adding at the end thereof the following new subparagraph:

"(C) on and after the date of the enactment of this subparagraph, amounts in such fund may be used by the State for administration of its unemployment compensation law and public employment offices;".

(4) Section 3306(f) of such Code is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and "; and

(C) by adding at the end thereof the following new paragraph:

"(3) on and after the date of the enactment of this paragraph, amounts in such fund may be used by the State for administration of its unemployment compensation law and public employment offices.".

(5) Section 3501 of such Code is amended by striking out "The taxes" and inserting in lieu thereof "Except as otherwise provided in section 3311, the taxes".

(b) (1) Section 302(a) of the Social Security Act is amended by inserting ", other than a State having an agreement under section 3311 of such Act," after "Federal Unemployment Tax Act".

(2) Section 303(a)(5) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided further*, That on and after the date of the enactment of this proviso, amounts in such fund may be used by the State for administration of its employment compensation law and public employment offices".

(3) Section 301(c)(3)(A) of the Social Security Act is amended by inserting ", not including amounts retained by States under section 3311 of such Act," after "Federal Unemployment Tax Act".

(c) Subsection (d) of section 901 of the Social Security Act is ameended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) (A) The Secretary of the Treasury is directed to transfer from the employment security administration account to the Federal unemployment account an amount equal to 100 percent of the additional tax received under the Federal Unemployment Tax Act with respect to any State by reason of the reduced credit provision of section 3311(f).

"(B) Any amount transferred pursuant to subparagraph (A) shall be credited against, and shall operate to reduce, the balance of advances made under section 1201 to any State in proportion to such State's respective share of the total of such balances.".

STATE MANAGEMENT OF STATE UNEMPLOYMENT FUND

SEC. 2. (a) Section 3304 (a) (3) of the Internal Revenue Code of 1954 is amended by inserting before the semicolon at the end thereof the following: ", or, at the option of the State, be maintained and managed as a separate fund by such State (in which case all earnings on such fund shall be credited to and form a part of such fund)".

(b) Section 3306 (f) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "(f) Unemployment Fund.—For purposes" and inserting in lieu thereof the following:

"(f) UNEMPLOYMENT FUND.—

"(1) For purposes";

(2) by redesignating the former paragraphs (1), (2), and (3) (as amended by section 1 (a) (4) of this Act) as subparagraphs (A) through (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) In the case of any State which chooses to maintain and manage its own unemployment fund rather than maintain an account in the Unemployment Trust Fund such choice must be made on a taxable year basis.".

(c) Section 3302 (c) (2) of the Internal Revenue Code of 1954 is amended by inserting "or fund" after "unemployment account".

(d) Section 303 (a) (4) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: ", or, at the option of the State, be maintained and managed as a separate fund by such State (in which case all earnings on such fund shall be credited to and form a part of such fund)".

(e) Section 901 of the Social Security Act is amended—

(1) in subsection (d) (1), by inserting "or pay" after "transfer";

(2) in subsection (d) (1) (A) (ii), by inserting ", or paid to," after "account of";

(3) in subsection (d) (1) (B), by inserting ", or, in the case of a State which maintains and manages its own unemployment fund, to such State," after "such additional tax" the first place it appears;

(4) in subsection (d) (2), by inserting "and payments" after "transfers"; and

(5) in subsection (f) (4) (A), by inserting "or payment" after "transfer".

(f) Section 903 of the Social Security Act is amended—

(1) in subsection (a) (1), by inserting before the period at the end thereof the following: ", or, in the case of any State which maintains and manages its own unemployment fund, shall be paid to such State at the beginning of the succeeding fiscal year";

(2) in subsection (a) (2), by inserting "or paid" after "transferred" each place it appears;

(3) in subsection (b) (1)—

(A) by striking out "shall, in lieu of being so transferred" and inserting in lieu thereof "or payment to such State shall, in lieu of being so transferred or paid";

(B) by inserting "or pay" after "shall transfer";

(C) by inserting "or to such State" after "account of such State"; and

(D) by inserting "or payment" after "available for transfer";

(4) in subsection (b)(2), by inserting ", or paid to a State," after "account of a State"; and

(5) in subsection (c)(1), by inserting ", or paid to a State," after "account of a State".

(g) Section 904(e) of the Social Security Act is amended by inserting ", other than a State agency of a State which maintains and manages its own unemployment fund" after "each State agency".

(h) Section 905(c) of the Social Security Act is amended by inserting ", or for payment to States maintaining and managing their own unemployment funds," after "Trust Fund".

(i) Section 1201 of the Social Security Act is amended—

(1) by inserting ", or, in the case of a State which maintains and manages its own unemployment fund, shall pay in monthly installments to such State," after "Unemployment Trust Fund";

(2) by inserting "or payment" after "transfer"; and

(3) by inserting "or paid" after "transferred".

(j) Section 1202(a) of the Social Security Act is amended—

(1) by inserting ", or may make payment from the State's unemployment fund into the Federal unemployment account," after "Federal unemployment account"; and

(2) by striking out "request" and all that follows and inserting in lieu thereof "request or paid, and the Secretary of the Treasury shall promptly transfer or credit such amount in reduction of the balance.".

(k) Section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by inserting before the period at the end thereof the following: ", or, in the case of a State which maintains and manages its own unemployment fund, by payment from the extended unemployment compensation account to such State".

RESPONSIBILITIES OF SECRETARY

SEC. 3. (a) The Secretary of Labor shall be responsible for maintaining the following activities and functions which support and contribute to the quality of the labor exchange system in each State and which preserve the national requirements of such a system: test development and research; maintenance of an occupational and industrial classification system; and exchange of labor among the States. The Secretary of Labor shall be responsible for maintaining such efforts as have been contracted with States with respect to federally mandated retirement and fringe benefits for employees of State Employment Security Agencies.

(b) The States, through the Governor's office or legislatively designated agency, shall be required to maintain their employment and unemployment efforts in accordance with the provisions of the Wagner-Peyser Act and the Social Security Act. States shall be required to maintain an actuarily sound employment and unemployment system.

CHART 3.—IMPACT STATEMENT USING 1981 DATA—CURRENT SYSTEM VERSUS PROPOSED

[In millions of dollars]

State	Present system		Proposed legislation					Proposed legislation	
	FUTA collections returned to State by DOL for administration	Interest earned by Treasury on trust fund balances (9.8375 percent)	Collected for administration (0.40 percent)	Interest to be earned on administration 13 percent [1]	State managed trust fund potential interest if invested at 13 percent [1]	Potential FUTA funds available from outstanding uncollected FUTA dollars (250,000,000) [1]	Bottom line impact cols. 3 through 6 minus cols. 1 and 2	Portion of FUTA collections passed to Treasury (0.25)	Available resources in grants to State's account (0.05)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
National total	2,025.4	990.6	1,761.8	229.0	1,510.2	125.0	610.0	1,099.5	219.4
Alabama	30.8	8.1	25.3	3.3	10.7	1.7	2.1	15.8	3.1
Alaska	18.7	8.5	4.6	.6	11.2	.4	−10.4	2.9	.6
Arizona	25.6	25.5	19.9	2.6	33.8	1.4	6.6	12.5	2.5
Arkansas	19.8	0	14.2	1.8	4.9	1.0	2.1	8.9	1.8
California	262.2	292.7	206.0	26.9	386.8	14.7	79.5	128.7	25.8
Colorado	25.6	10.8	24.3	3.2	14.3	1.7	7.1	15.2	3.1
Connecticut	30.1	0	28.0	3.6	15.0	2.0	18.5	17.5	3.5
Delaware	5.7	0	4.8	.6	1.1	.4	1.2	3.0	.6
District of Columbia	13.3	0	7.3	.9	1.9	.5	−2.7	4.5	.9
Florida	46.6	78.4	73.1	9.5	103.6	5.3	66.5	45.8	9.1
Georgia	35.2	45.2	41.1	5.3	59.7	2.9	28.6	25.7	5.1
Hawaii	10.1	9.9	7.4	1.0	13.1	.5	2.0	4.7	.9
Idaho	15.0	8.0	6.0	.8	10.6	.4	−5.2	3.7	.8
Illinois	93.2	0	94.6	12.3	27.8	6.8	48.3	59.2	11.8
Indiana	39.1	19.7	42.3	5.5	26.0	3.0	18.0	26.5	5.3
Iowa	22.8	10.0	20.1	2.6	13.2	1.4	4.5	12.5	2.5
Kansas	16.7	21.2	17.3	2.2	28.0	1.3	10.9	10.7	2.2
Kentucky	22.0	2.4	21.9	2.8	3.2	1.5	5.0	13.8	2.7
Louisiana	27.9	20.3	31.9	4.1	26.8	2.2	16.8	19.9	4.0
Maine	11.8	.1	7.4	1.0	.2	.5	−2.8	4.6	.9
Maryland	27.6	37.8	28.1	3.7	49.9	2.0	18.3	17.5	3.5
Massachusetts	48.2	28.2	46.8	6.1	37.2	3.3	17.0	29.2	5.9
Michigan	122.0	0	65.5	8.5	24.9	4.6	−18.5	41.0	8.2
Minnesota	30.1	.2	31.9	4.1	.3	2.2	8.2	20.0	4.0
Mississippi	20.3	22.7	14.9	1.9	30.0	1.0	4.8	9.3	1.8
Missouri	42.9	7.8	36.0	4.7	10.3	2.5	2.8	22.5	4.5
Montana	10.0	1.9	6.1	.8	2.6	.4	−2.0	3.8	.8
Nebraska	13.8	7.8	10.2	1.3	10.3	.8	1.0	6.4	1.3
Nevada	15.3	12.3	9.4	1.2	16.3	.6	−.1	5.8	1.2
New Hampshire	6.7	7.7	7.3	.9	10.1	.5	4.4	4.5	.9
New Jersey	71.3	0	60.2	7.8	27.5	4.2	28.4	37.7	7.5
New Mexico	12.0	9.2	8.1	1.1	12.2	.6	.8	5.0	1.0
New York	178.6	55.1	134.6	17.6	72.9	9.6	1.0	84.2	16.8
North Carolina	38.2	56.0	45.8	6.0	74.0	3.3	34.9	28.7	5.7
North Dakota	9.8	1.3	3.9	.5	1.7	.3	4.7	2.4	.5
Ohio	76.8	0	83.0	10.8	25.2	5.9	48.1	51.9	10.4
Oklahoma	27.0	18.5	22.3	2.9	24.5	1.6	5.8	13.9	2.8
Oregon	34.6	32.0	20.2	2.6	42.3	1.4	−.1	12.6	2.5
Pennsylvania	127.4	0	88.6	11.5	52.5	6.3	31.5	55.3	11.1
Puerto Rico	17.8	0	15.4	2.0	9.1	1.1	9.8	9.7	1.9
Rhode Island	13.4	0	7.3	.9	5.1	.5	.4	4.5	.9
South Carolina	22.3	18.1	22.2	2.9	23.9	1.6	10.2	13.8	2.8
South Dakota	7.5	.7	3.6	.5	.9	.3	−2.9	2.2	.4
Tennessee	25.7	17.0	32.2	4.2	22.4	2.2	18.3	21.0	3.2
Texas	89.3	23.5	124.6	16.2	31.1	9.0	68.1	77.8	15.6
Utah	23.6	5.5	9.4	1.2	7.3	.6	−10.6	5.8	1.2
Vermont	5.5	0	3.5	.5	2.6	.3	1.4	2.2	.4
Virginia	24.3	7.0	39.9	5.2	9.2	2.8	25.8	22.6	5.0
Washington	47.4	34.4	32.2	4.2	45.4	2.2	2.2	20.1	4.0
West Virginia	15.2	0	11.9	1.5	3.4	.8	2.4	7.5	1.5
Wisconsin	40.9	18.4	34.7	4.5	24.3	2.5	6.7	21.7	4.3
Wyoming	7.7	6.7	4.5	.6	8.9	.4	0	2.8	.6

[1] Represents potential new sources of revenue to State's previously unavailable.

Note: Proposed system—0.4 percent administration; 0.05 percent grant's to State's account (represents unallocated resources of $219,400,000, nationally to States adversely affected); 0.25 percent FUTA collections passed to Treasury for loans and EB's; 0.70 percent total FUTA tax.

Source of col. 6—Projections of outstanding uncollected FUTA taxes in 1981, National Commission on Unemployment Insurance.

Calculation of col. 6—Assume an efficient State managed FUTA system could recover 50 percent of outstanding funds. We distributed $125,000,000 to the States by their percentage share of total national FUTA collections (0.7).

Calculation of col. 7—Cols. 3 through 6 (minus) cols. 1 and 2.

Calculation of col. 8—Passed to Treasury for outstanding loans, EB's.

Calculation of col. 9—Grants to States account passed to Treasury for redistribution to State's adversely affected by new legislation.

Calculation of col. 5—If col. 2 interest is 0—examples of potential interest if 1981 November ending balance for trust fund invested at 13 percent annual rate: Illinois = 214,100,415 × 13 percent = $27,833,054; Michigan = 191,190,008 × 13 percent = $24,854,701; Pennsylvania = 403,681,694 × 13 percent = $52,478,620. If col. 2 interest greater than 0—multiply interest in col. 2 × 1.3214 to obtain interest at 13 percent (i.e. percent increase in interest 9.8375 to 13 percent is 0.3214. Example: Alabama, $8,100,000 × 1.3214 = $10,700,000.

Calculation of col. 2—Interest earned on trust fund balances through November 1981.

Source: Research and Analysis Division, Virginia Employment Commission, Mar. 29, 1982.

By Mr. LUGAR (for himself and Mr. GARN) (by request):

S. 2361. A bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1982

● Mr. LUGAR. Mr. President, today, by request, I am introducing, along with Senator GARN, the Housing and Community Development Amendments of 1982. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

Section-by-Section Explanation and Justification

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT

RENTAL REHABILITATION

Section 101 would amend title I of the Housing and Community Development Act of 1974 to create a new Rental Rehabilitation Program. This new initiative will help preserve the Nation's rental housing stock in low- and moderate-income neighborhoods and assist very low-income tenants. The need for rental rehabilitation is clear: of 26 million renter-occupied units in the Nation, 1.8 million are seriously deficient and another 2.6 million have significant inadequacies. Furthermore, continuing deterioration and abandonment of rental units is accelerating the decline of many urban neighborhoods.

In order to provide low-income housing assistance at a fraction of previous costs, the Department proposes to rely primarily on the Modified Section 8 Existing Housing Program to bridge the "affordability gap" for very low-income renters in the private market. To ensure that the modified certificate approach works smoothly, a supporting program to rehabilitate rental units is necessary. The Rental Rehabilitation Program will answer the concern expressed by some that certificate assistance will be inadequate because affordable units will not be available to certificate holders. By providing States and local governments with the ability to produce modestly rehabilitated units where needed, the new initiative will minimize the occurrence of localized rental unit shortages which may otherwise occur within some markets and neighborhoods.

The proposed Rental Rehabilitation Program addresses the need to upgrade rental properties through allocations to larger cities, urban counties, and States of both cash grants (Rental Rehabilitation Grants) and contract authority for rental assistance payments for tenants (Modified Section 8 Existing Housing). The new initiative would replace HUD's current Section 312 Rehabilitation Loan and Section 8 Moderates Rehabilitation Programs.

(1) Rental Rehabilitation Grants, allocated on a needs basis, would be used by local and State governments to help reduce owners' costs of rehabilitating rental properties in low- and moderate-income neighborhoods. This reduced-cost financing would make rehabilitation feasible in those areas where the after-rehabilitation, free-market rent for units will be affordable to persons receiving rental assistance through Modified Section 8 Existing Housing.

(2) Modified Section 8 Existing Housing ("modified certificates") would offer very low-income tenants the opportunity to lease rehabilitated units and other standard housing stock at rental payments which they can afford. Contract authority for certificates would be allocated for local and State governments in the same proportion as their rental rehabilitation grants.

Program funds are to be used in low- and moderate-income neighborhoods, selected according to locally established criteria. Grants to local and State governments will have no restrictions regarding the number of units in buildings to be assisted; unlike previous HUD programs, no distinction is made between single family and multifamily properties. All structures and units must meet the Section 8 Existing Housing Quality Standards after rehabilitation. Local and State governments are given broad discretion in providing rental rehabilitation funds to individual property owners. For example, public monies may be given as outright grants (reducing the rehabilitation funds which property owners need to obtain from private sources), deferred payment loans (to be repaid on sale of the building), or low-interest loans repayable to the public agency.

In order to encourage a high level of participation by private lenders in project financing and underwriting, assistance provided under the new progam may not exceed 50 percent of the cost of rehabilitating each individual property. If additional public funds are needed to meet local and State Program objectives, Community Development Block Grants or other public monies may be used to further assist individual projects.

A key feature of the new program is the separation of the rehabilitation and rental subsidies, and a reliance on private market forces to encourage owner participation and availability of rehabilitated units for very low-income families. Unlike HUD's current Section 8 Moderate Rehabilitation Program, the Rental Rehabilitation Program would not require property owners receiving assistance to agree to rent limitations and guaranteed low-income occupancy imposed by government in connection with the program. Instead, a program performance standard would encourage participating governments to select neighborhoods and properties in which eighty percent of initial after-rehabilitation market rents (i.e., rents without special program rent limits) will fall below the applicable payment standard for modified certificates, and thus be affordable to very low-income tenants holding certificates.

Consistent with the general rules of the Modified Section 8 Existing Housing Assistance Program, tenants receiving certificates under the rental rehabilitation initiative may live in units of their choice. Thus, they may elect to remain in units rehabilitated under the program or to move to any other dwelling of their choice. This means that long-term, low-income occupancy is rehabilitated structures is not guaranteed through the new program. However, the performance standard on after-rehabilitation rents mentioned above would push rental rehabilitation activity into areas where such rents are most likely to continue to be affordable by very low-income renters with modified certificates and low- and moderate-income families and individuals without certificates.

The program separation between rehabilitation and rental subsidies will have fundamental implications for financial underwriting and management of individual structures. Since certificate holders in assisted properties may move out of their units at any time, subject to any lease requirements, owners cannot depend on a HUD-guaranteed rental income stream. Instead, property financial underwriting, including repayment of rehabilitation debt, has to make sense even if buildings have no certificate holders renting units. Real market rents—rents which unsubsidized tenants are actually willing to pay for rehabilitated units in the areas where assisted structures are located—would serve as the basis for the underwriting of rehabilitation projects supported by this program.

It is anticipated that local and State governments, interested in stretching the impact of their rental rehabilitation funds, will generally limit the amount of assistance to each individual project to the minimum amount needed to make the project work.

Since this program does not provide for guaranteed tenants and/or subsidies attached to individual units, property owners must work to keep current tenants satisfied and, if vacancies occur, to attract new renters. Thus, owners will be under market place pressure to maintain building services and conditions once rehabilitation is completed.

In short, the proposed rental rehabilitation program brings the free market place back into HUD's assisted housing programs. As a result of this fundamental shift in approach, the Federal Government will be able to assist a significantly larger number of property owners and very low-income tenants than current programs could for the same amount of money. Analysis shows that the proposed Rental Rehabilitation Program can provide comparable assistance to that provided under the Section 8 Moderate Rehabilitation Program to 40 percent more families and to 40 percent more units at the same cost.

Specific provisions of the proposal are as follows. Subsection (a) provides basic authorization to the Secretary to make rental rehabilitation grants to States and units of general local government. Grants would be made available to help support the rehabilitation of privately owned real property to be used for primarily residential rental purposes. Up to $150 million of amounts appropriated under title I of the 1974 Act for FY 1983 would be available for rental rehabilitation grants in that year.

Subsection (a) would also authorize HUD to make available contract authority under the Modified Section 8 Existing Housing Program for use in connection with rental rehabilitation programs. The special allocations of these certificates are expected to be used primarily to enable tenants of structures to be upgraded under the program to remain in their units after rehabilitation. However, these certificates may also be used to assist tenants displaced as the result of rehabilitation activities and to implement the more general purposes of the Modified Section 8 Existing Housing Assistance Program, i.e., to assist other very low-income tenants in obtaining decent, safe, and sanitary housing. For example, certificates could be given to qualified families on Section 8 waiting lists with referral to vacant units rehabilitated with program funds.

Subsection (b) establishes provisions for the allocation and reallocation of resources provided under the new section. Paragraph (1) makes cities with populations of 50,000 or more, urban counties (as defined under title I of the Housing and Community Development Act of 1974), and States eligible for rental rehabilitation grants. The Secretary would allocate amounts, taking into account such factors as low-income renter population, rental housing market conditions, overcrowding of rental housing, the condition of the rental housing stock, and other appropriate objectively measurable conditions. These factors are intended to assure that program funds are targeted to areas of greatest need. The actual allocation system will be determined once relevant 1980 Census data are available.

Paragraph (2) gives the Secretary authority to make several key adjustments in the allocation amounts established under paragraph (1). First, the Secretary may establish minimum allocation amounts for grants to cities and urban counties representing program levels below which conduct of a local program would not be feasible. HUD is currently planning a minimum allocation amount of $100,000 which would generate a program volume of at least $200,000 (due to the 50% leveraging requirement). Funding "allocations" of less than the minimum amounts would be added to the allocation for the States where the relevant cities and counties are located, and these localities would be eligible for assistance from the States in undertaking rental rehabilitation activities.

Second, the Secretary is authorized to make annual performance adjustments, not to exceed 15 percent in amounts added or deducted, to city, urban county, and State allocations, based on an annual review of each grantee's progress in meeting program performance requirements. The Secretary would establish program performance criteria, including performance in achieving the result that at least 80 percent of the initial after-rehabilitation rents for assisted properties, on a free-market basis, are within the applicable payment standard for modified certificates. If a city or urban county qualifies for a direct allocation of funds above the minimum program amount, it would receive a grant even if this performance adjustment reduces the grant below the minimum level.

Paragraph (3) provides for allocation of contract authority for modified certificates for grantees on a basis proportional to the allocation of rental rehabilitation grant funds. It also authorizes the Secretary to include a provision in the annual contributions contracts for these certificates to ensure that use of the rental rehabilitation grants and modified certificates is effectively coordinated.

Paragraph (4) authorizes the Secretary to make annual program reviews and audits of local and State efforts to ensure that grant recipients are carrying out their activities in a timely manner and consistent with program guidelines, and that they have a continuing capacity to carry out the program in a timely manner. This paragraph also authorizes the Secretary to adjust, reduce, or withdraw resources made available under the program, with the limitation that resources already expended on eligible activities may not be recaptured or deducted from future resources to be made available. Resources which become available as a result of these funding adjustments (and actions under section 111 of the 1974 Act) are to be reallocated to other States and localities during the year in which they become available. These review and grant adjustment features are comparable to those in the Community Development Block Grant Program.

Paragraph (5) authorizes the Secretary to establish the maximum levels of rental rehabilitation grants which individual governments may receive in a single year under the program. Although States and localities with effective programs may receive funds above their initial allocations, their receipt of funding reallocations will have an upper limit. This provision will minimize the incentive for local governments to overstaff or spend funds too quickly in a "grantsmanship" effort to get more funds.

Paragraph (6) provides that funds not obligated by States and localities to specific projects at the end of a fiscal year will be added to funds available for the general allocation in the next year under subsection (b).

The rental rehabilitation program would not require participating governments to submit an application before receiving annual funds. Subsection (c) does, however, require program participants to prepare an annual statement containing a description of their rental rehabilitation programs by December 31 of each year in which activities are being carried out. Copies of the statement would be made available to the public and submitted to HUD.

Subsection (d) contains a series of key program requirements. Paragraph (1) provides that rental rehabilitation grants can only be used to rehabilitate structures which are located in low-and moderate-income areas defined and designated by the grant recipient and which are to be used primarily for residential rental purposes. Paragraphs (2) and (3) establish the requirements that all assisted rehabilitation meet the section 8 Housing Quality Standards, and that program funds only cover 50 percent of project rehabilitation costs, as defined by the Secretary. Paragraph (4) prohibits participating governments from imposing special rental limitations on property owners assisted with rental rehabilitation funds. The rental of units in properties rehabilitated under the program would be subject to the same State and local requirements as any comparable rehabilitation undertaken without Federal assistance. This feature is crucial to the cost-efficient, market-based characteristic of the Rental Rehabilitation Grant Program.

Paragraph (5) prohibits owners of structures assisted with program funds from refusing to rent to tenants solely because they are receiving Section 8 rental assistance. Paragraph (6) requires participating jurisdictions, in designing and operating their programs, to require property owners to be personally liable for payment of debts incurred. This provision is designed to encourage an increased sense of owner responsibility for individual assisted projects during and after rehabilitation. It will also tend to encourage program participation by owners with a greater interest in long-term rental income rather than the syndication of tax benefits.

Paragraph (7) prohibits States and localities from using program funds for the costs of administering their rental rehabilitation efforts. Localities and States are expected to use Community Development Block Grant or other public funds to support the administrative costs of operating their rental rehabilitation programs.

Subsection (e) contains provisions relating to State rental rehabilitation programs. Paragraph (1) limits State use of rental rehabilitation resources to jurisdictions and unincorporated areas which do not receive direct allocations under subsection (b). States may either establish their own programs, working directly with property owners in the eligible areas, and/or distribute the resources to individual jurisdictions. In order to give States time to gear up for the program, States would be able to opt not to administer a rental rehabilitation program in fiscal year 1983. HUD will administer the State's allocations during 1983 in any State exercising this option. After fiscal year 1983, States will be expected to assume responsibility for administering their programs.

Subsection (f) gives the Secretary authority to establish by regulation relocation standards for the new program. These rules will only apply to the fiscal year 1983 HUD-operated State program, as provided for in subsection (e).

Subsection (g) provides that program participants will be responsible for supporting national historic preservation objectives in their rental rehabilitation efforts, working with State Historic Preservation Officers on any projects where national historic preservation standards cannot be met. It also exempts the new program from provisions of the National Environmental Policy Act and other related laws and authorities.

Section 101(b) would exempt rental rehabilitation grants from the "lump sum" drawdown provisions of section 104(g). Subsection (c) contains a technical, conforming amendment. Subsection (d) would require program grantees to certify in advance of funding that their programs will be conducted and administered in conformity with applicable civil rights requirements.

URBAN HOMESTEADING

Section 102(a) would reduce the fiscal year 1983 funding authorization for the urban homesteading program from $13.467 million to $12 million, and would authorize the appropriation of such sums as may be necessary for the program for fiscal year 1984.

Of the $12 million requested, $9 million would be used for the existing urban homesteading program. This represents a program level sufficient to meet anticipated program demand for fiscal year 1983. The remaining $3 million would be used to carry out the Multifamily Homesteading Demonstration Program proposed in subsection (c).

Subsection (b) contains a series of amendments to permit HUD and the governmental entities carrying out urban homesteading programs to charge consideration in connection with the transfer of homestead properties to the entities and to the ultimate owner-occupants, respectively. Existing law requires HUD to transfer properties to local entities without payment, and requires conveyance of the property to the homesteader to be "without substantial consideration." If the consideration received for a property by a local entity exceeds that charged by HUD for the property, half of the excess would have to be remitted to HUD.

These amendments recognize the fact that free transfer is not always necessary to successful homesteading. Thus, HUD would be given discretionary authority to set a transfer price for individual homesteading properties at a level conducive to attract homesteaders, while at the same time stretching scarce Federal resources over more homesteading properties. States and localities would be free to charge whatever consideration they deem appropriate for these properties, with the caveat that half of their "gain" would have to be refunded to HUD.

Subsection (c) would authorize HUD to demonstrate the feasibility and desirability of using a variety of homesteading and related techniques to encourage the reuse of HUD-owned multifamily properties for primarily residential use, in which the dwelling units would be under a cooperative or condominium form of ownership. The Secretary would transfer suitable properties to the State or local government, which would be responsible for managing the disposition and rehabilitation of the property at the local level. The transfer would include such terms and conditions as would be agreed between the Secretary and the responsible agency, including the right of the Secretary to assure that such use in fact occurs.

The program would be designed to spur local interest in dealing with deteriorated multifamily housing stock in creative and innovative ways. Among other things, HUD would encourage new approaches to multifamily homesteading, such as "condosteading". "Condosteading" would permit homesteaders to build equity, and could be used to encourage people of middle income to invest and live in deteriorated buildings and neighborhoods. HUD would also encourage creative financing techniques for rehabilitation, which would result in the maximum leverage of public funds.

The Multifamily Homesteading Program would concentrate on the transfer of properties with approximately 30 units (to the extent available), to coincide with the precepts of the proposed Rental Rehabilitation Program. This would also allow for the transfer of a greater number of properties.

The Budget assumes participation by up to 15 localities and the transfer of at least 15 properties, with an average acquisition price of $200,000 (30 unit properties at $6,500 per unit average). Since the Department intends to vary the level of subsidy for property acquisition by requiring a down payment or equity commitment by the homestead entity, the total number of transfers could increase by as much as 50 percent.

Finally, the proposal would authorize the use of homesteading funds for technical assistance in connection with the demonstration program.

REPEALERS

Section 103 would repeal several HUD community development and related authorities. Subsection (a) would repeal the Rehabilitation Loan Program contained in section 312 of the Housing Act of 1964. This Program authorizes direct loans to property owners and tenants to finance the rehabilitation of residential and business properties.

These functions are eligible for funding under a number of existing eligible activities in the Community Development Block Grant Program. For example, section 105(a)(4) includes as an eligible activity the rehabilitation of buildings and improvements, including the financing of public or private acquisition of privately owned properties for rehabilitation and the rehabilitation of those properties. Section 105(a)(14) provides that block grants may be used, among other things, to finance the rehabilitation of commercial or industrial buildings or structures and other commercial or industrial real property improvements. Finally, section 105(a)(15) allows block grants to be used for a wide range of rehabilitation activities undertaken by neighborhood nonprofit groups, local development corporations and minority-enterprise small business investment companies. In addition, special funding for rental rehabilitation is proposed in the Department's Rental Rehabilitation Initiative. In light of these existing and proposed authorities, continuation of the Section 312 Program is no longer desirable.

The proposal would, however, retain provisions of section 312 concerning the creation and uses of the program's revolving fund. These provisions would be retained to insure that funds for servicing and liquidating section 312 loan contracts would be available until September 30, 1983 or until the assests and liabilities of the fund are transferred to the revolving fund for liquidating programs, whichever is earlier. An amendment to accomplish the transfer of the fund will be included in the Department's proposed fiscal year 1983 appropriation legislation. The provision also would make clear that the monies in the revolving fund for liquidating programs may be used for necessary expenses (including the use of private contractors) for servicing and liquidating section 312 loans.

Subsection (b) would repeal the Surplus Land Program contained in section 414 of the Housing and Urban Development Act of 1969. Section 414 permits the General Services Administration to transfer surplus Federal real property to HUD and the Department of Agriculture for sale or lease at fair value for use for predominantly low- and moderate-income housing.

Since its inception, this program has been infrequently used. Only seven properties have been transferred since 1970. This limited activity over such a long period does not justify the costs involved—staff, travel etc.—in maintaining the program. Moreover, the program is administratively inefficient, since it interjects HUD and FmHA between GSA and the ultimate purchaser/lessee of the property involved.

In addition to repealing section 414, this proposal would permit HUD and FmHA to dispose of surplus property within 120 days after the effective date of this Act if either Secretary had requested GSA to transfer the land prior to the effective date of this Act. This is necessary to assure that adequate time is afforded the Secretaries to complete processing of projects in the pipeline at the time of enactment of the 1983 legislation.

Section 414 presently provides that land conveyed to a private entity will revert to the United States if it is used for other purposes within 30 years (20 years with Federal approval) after its transfer for use as low- and moderate-income housing. The repealer specifically provides that this provision will continue to be in force and effect for all properties transferred pursuant to section 414 to which it applies.

Subsection (c) would repeal provisions of the Urban Renewal, Open Space Land and Neighborhood Facilities Programs in order to reduce Federal involvement in decisions which are more appropriately made at the local level.

Paragraph (1) of subsection (c) would repeal section 106(g) of the Housing Act of 1949. This provision requires localities to obtain a transient housing study before an Urban Renewal Plan can provide for the construction of hotels or other transient housing in the Urban Renewal area. The study is to assure that there is a need for this type of housing in the area. This requirement would be deleted, since the decision concerning whether to permit transient housing is one that should be made by local authorities who are most familiar with local zoning and marketing conditions.

Paragraphs (2) and (3) of subsection (c) would eliminate provisions in the Open Space Land and Neighborhood Facilities Programs which prohibit the conversion of land or property obtained with assistance under the Programs for uses other than those intended at the time the grant was made, without prior Federal approval. These changes would give the locality complete discretion in determining the appropriate use of its land or property, and would thereby promote the effort to decentralize the decisionmaking process and speed its return to local control. The locality in which the land and/or property is situated is best able to determine what is the most appropriate use of its resources and whether or not a conversion to another use is consistent with its needs and objectives.

Specific provisions to be repealed include:

Section 703(d) of the Housing and Urban Development Act of 1965. This authority prohibits the Secretary from approving a conversion in the use of neighborhood facilities during a 20-year period following the grant, unless HUD finds that the conversion is in accordance with the then-applicable program of health, recreational, social, or similar community services in the area, and is consistent with comprehensive planning for the development of the community in which the facility is located.

Section 704 of the Housing Act of 1961. This provision allows the Secretary to approve a conversion of open space land to other purposes only where HUD finds that (1) there is other comparable land available for substitution; (2) it is needed for orderly growth and development; and (3) it is in accord with the comprehensive plan for the urban area.

Section 705 of the Housing Act of 1961, which requires prior approval by the Secretary of the Interior before open space land involving historic or architectural purposes can be converted for other uses.

The second sentence of section 706 of the Housing Act of 1961, which gives the HUD Secretary general authority to deny approval of the conversion of land for which a grant was made to acquire interests to guide future urban development.

TITLE II—HOUSING ASSISTANCE PROGRAMS

ALLOCATION AND USE OF ASSISTED HOUSING AUTHORITY

The Department's FY 1983 Budget for low-income housing programs consists of the following major elements:

$1.8 billion of budget authority for public housing modernization under the Comprehensive Improvement Assistance Program contained in section 14 of the United States Housing Act of 1937;

10,000 units of Section 8 new and substantial rehabilitation for use with the section 202 Housing for the Elderly or Handicapped Programs;

106,615 units under the new Modified Section 8 Existing Housing Assistance Program contained in section 202 of this Act, broken down as follows:

60,615 certificates designated for the conversion of units now under the current Existing Housing Program, 30,000 certificates estimated to be used in conjunction with the Rental Rehabilitation Program proposed in section 101 of this Act, 10,000 certificates estimated to be used with the sale of HUD-held properties (Property Disposition), 5,000 certificates to be available to the tenants of those public housing units to be sold or demolished during the fiscal year, 1,000 certificates to be available for those Section 8 New Construction contracts that are not renewed at the end of their five-year contract term; and

The conversion of 5,000 units of Section 23 Leased Housing to the present Section 8 Existing Program.

Since the entire program for fiscal year 1983 is proposed to be funded through recaptured authority, no additional authority under section 5(c) of the 1937 Act is being requested for that year. In order to implement the program, however, section 201 would repeal section 213(d) of the Housing and Community Development Act of 1974 and section 5(c) (2) and (3) of the 1937 Act.

Section 213(d) requires HUD to allocate housing assistance on the basis of the relative needs of different areas and communities so far as practicable, establishes the range of allocations for nonmetropolitan areas at not less than 20 nor more than 25 percent of the total amount of such assistance, limits the reallocation of funds outside States in which they were initially allocated, and contains the 15 percent Headquarters Reserve. Given the Department's proposed program for fiscal year 1983 and beyond, it makes little sense to retain section 213(d). That section specifically exempts Comprehensive Modernization Assistance from its coverage. Moreover, it is inconsistent with the proposed uses of the new Section 8 Modified Certificate Program. Conversions of units assisted under other 1937 Act provisions to the new program and provision of assistance in connection with the Property Disposition Program bear no necessary relationship to an area's relative need or location; allocation of modified Section 8 assistance for use in the Rental Rehabilitation Program would be governed by a separate allocation process. To the extent an allocation system is needed for the relatively small number of section 202 units, an equitable procedure could be established administratively.

Section 5(c) (2) and (3) of the 1937 Act imposes, among other things, percentage limits on the amount of contract authority which can be used for new and substantially rehabilitated units as opposed to existing units for fiscal years 1981 and 1982. These provisions, if retained, could apply to recaptured and/or carryover funds from those years which are proposed to be used to carry out the 1983 program. Since the percentage and other requirements of these provisions are inconsistent with the Department's 1983 program, they should be repealed.

MODIFIED SECTION 8 EXISTING HOUSING ASSISTANCE PROGRAM

Section 202 would amend Section 8 of the United States Housing Act of 1937 to create a new component under the Section 8 Existing Housing Assistance Program intended to serve as the cornerstone of HUD's future assistance to needy households.

These amendments draw upon HUD's experience with the Experimental Housing Allowance Program (EHAP), and would improve upon the present Section 8 Existing "Finder's Keeper's" program in several important respects. Instead of providing maximum rent ceilings based upon published Fair Market Rents (FMR's), under the modifications a "payment standard" would be used, based on the rental cost in a particular area of modestly priced standard housing of various sizes and types. This standard would be used, in combination with appropriate data about family income, to determine the Federal subsidy amount to be provided. A family would be permitted to rent above the payment standard amount, but would not receive additional subsidy when it did so. At the same time, a family also would be permitted to rent below the payment standard amount (provided that the selected unit met prescribed housing quality standards) without reduction of the subsidy amount. The program thus contains a "shopper's incentive" which serves both to contain the inflationary impact on rents that is experienced in the current program and, more importantly, to permit assisted families the similar range of choice between housing and other needs that they would exercise if utilizing only their own money.

The absence of a maximum rent provision would have several beneficial effects:

Increased opportunities for families to improve their housing and neighborhoods. Although housing markets are complex, in general the price of rental housing can be viewed as a continuum reflecting quality and location. Thus, the present role of FMR's severely limits the opportunities families have to improve their housing and neighborhoods. Without a rent ceiling, families would be able to choose units in neighborhoods with less concentration of low-income residents, furthering the legislative goal of promoting economically mixed housing and the Departmental goal of increased opportunity for all people to live where they choose.

In the EHAP, which also did not have a rent ceiling feature, over half of the participating families chose units above the equivalent of FMR and paid the additional cost themselves. Families like these, who are willing to forego other consumer items in order to live in better units or in better neighborhoods, should be permitted to do so.

Greater equity among eligible families. Many families are now living in housing which costs more than the FMR for Section 8 Existing housing. The rent ceiling feature excludes these families from participating in the present Section 8 program, ironically, because of the high value they place on housing. (The Section 8 Research program has found that a few families do downgrade their housing in order to get within the FMR.)

Easing pressures on FMR's. In the EHAP, rents of units followed the rents in the market at large. In the Section 8 Existing Housing Program, however, there is a heavy concentration of rents near the FMR. There are several reasons for the concentration, but a major cause is the search for units in the narrow band of housing just under the FMR. Another reason is the perception that if a unit is in the program it can be rented at FMR, even if it was previously rented below it. In a survey of Section 8 landlords, many stated that they raised their rents to meet the FMR. All of these factors have the effect of pushing rents in that segment of the market up to FMR.

Because rents are pushed up to FMR, or even above FMR's to the maximum exception rent, and because the effect of the ceiling is to exclude units above this limit from the program, the present system creates constant pressures for raising FMR's, or for authorizations to use exception rents.

Comparisons of rent changes for EHAP and Section 8 Existing Housing Program recipient families that do not move demonstrate the difference a ceiling makes. These families in Section 8 experienced an increase of 8 percent in rent. In EHAP, without the ceiling, similar families' rents increased on average less than 2 percent.

Under the new program, the monthly assistance payment available for a family would be the amount by which the area's payment standard exceeded 30 percent of the family's monthly adjusted income. This amount would be controlled only by a "minimum rent" exception providing that in no case may the assistance payment be more than the amount by which the actual rent for the dwelling unit (including amounts allowed for separately metered utilities) exceeds the higher of (1) 10 percent of the family's income or (2) the portion of any welfare assistance payment which is specifically designated to meet housing costs.

For example, assume a payment standard of $300 and a family with an adjusted monthly income of $400. Deducting $120 (30 percent of adjusted income) from the payment standard would provide the family with a maximum subsidy of $180 a month ($300 − $120 = $180). This $180 would be the actual subsidy payment, unless the "minimum rent" exception clause in the payment standard formula produced a lower figure. For example, assume that the family's (gross) income is $475.00 a month, and that the rent (including utilities paid by the tenant) for the family's chosen unit is $220 a month. Subtracting 10 percent of the family's income ($47.50) from unit rent would result in a figure of $173.50 ($220 − $47.50 = $173.50). Since this is less than the subsidy produced by the payment standard-based formulation, it would reduce the subsidy. On the other hand, a $230 a month rent would call for the family's receipt of the full $180 monthly subsidy, since the minimum rent calculation at that level ($230 − $47.50) would equal $180.50, and thus the payment standard calculation, and not the minimum rent, would govern. In either of these cases, as is evident, it takes the selection of a unit whose actual rent is substantially below the payment standard before the minimum rent provision becomes applicable.

Generally, families paying more than the payment standard for rent will contribute more than 30 percent of their adjusted income to the gross cost of housing chosen by them. On the other hand, to the extent that a family chooses housing at a cost below the payment standard, the family's contribution will be reduced.

But a household which rents a unit below the payment standard would not have its subsidy reduced. The tenant would be able to keep all savings in connection with finding an acceptable unit at a cost below the amount of the subsidy plus the family's rent contribution. The proposal would thus provide the household with a strong incentive not to pay more for a unit than its market value. This "shopper's incentive" would, of course, be subject to and limited by the minimum rent provision.

The program would be administered by the public housing agencies which currently administer the Section 8 Existing Housing Program. These agencies include local housing authorities which also own public housing units, as well as State and regional agencies and a number of other local public entities.

Under the new program, initial eligibility would be limited to households with incomes at or below 50% of area median family income. Families would continue to receive assistance until such time as income increased to the point where the subsidy was zero or until the end of the annual contributions contract terms, whichever came first. However, an important exception is provided for families which were previously receiving assistance under the United States Housing Act of 1937. A family whose assistance is being converted to the new program from another Section 8 program, or a family in public housing whose unit is scheduled to be demolished, could qualify for assistance under the new program even though family income was above 50% of median, based on the family's previous qualification for assistance under the Act.

Families qualifying for assistance under the program will be able to select housing from among the existing private rental stock. In some circumstances (for example, in the Rental Rehabilitation Program) the family's receipt of a certificate may be based upon its occupancy of a particular housing unit which is being upgraded or rehabilitated with Federal assistance. Others may receive a certificate based on their occupancy of a unit in a formerly assisted project that HUD has had to acquire and resell.

In such circumstances, the family may be welcome to continue to occupy the same unit, receiving the benefit of the certificate and its subsidy. However, such a family would not be required to occupy that unit as a condition to the receipt of its certificate. The certificate could be used in connection with that unit, or for any other standard unit the family chooses.

The unit selected by the family would be subject to an initial inspection to assure that it met housing quality standards established by the Secretary, before any subsidy assistance could be provided under the program. Subsequent inspections would be made at least annually to assure that the unit continues to meet such standards; otherwise the subsidy would be discontinued unless the family moved or the owner agreed to make necessary repairs.

The specific amendments to section 8 proposed to implement these modifications involve several steps. First, an amendment to section 8(b) of the United States Housing Act of 1937 is proposed to permit, under Annual Contributions Contracts (ACC's) executed after enactment of the Housing and Community Development Amendments of 1982, assistance contracts using the new payment standard for family-selected existing housing. It is anticipated that all new ACC's providing Section 8 Existing Housing subsidies after Fiscal Year 1982 will be under the modified program, except for "project-based" Existing Housing subsidies in connection with Rent Supplement, Section 236 and Section 23 Conversions.

Section 8(c) is proposed to be amended to retain most of the features of the current Section 8 program intact, but aspects of that authority formerly contained in section 8(d) have been merged into subsection (c) as well. Thus, subsection (c) would describe program elements which pertain to assistance contracts based upon a maximum monthly rent, while subsection (d), completely revised, would describe the new component of the Section 8 Existing Housing Assistance Program.

Proposed section 8(c)(8) (which has start the same designation under current law) has been amended to clarify that the requirements of that paragraph apply to newly constructed or substantially rehabilitated section 8 units. This was in fact the original intent of the provision, as made clear by the Conference Report on the Housing and Community Development Amendments of 1981.

Proposed new subsection (d)(1) requires the Secretary to establish payment standards (based on dwelling size and type) for different market areas, and states that these standards shall be used to determine the maximum monthly assistance which may be paid for any family. Payment standard levels shall be designed so as to assist families in securing decent, safe and sanitary housing, while providing assistance to the greatest possible number of families.

Payment standards (and fair market rents in section 8(c) as proposed to be revised) are required to be published in the Federal Register. However, the proposal would not make the determination of these amounts a "rulemaking." While the Department may well find it necessary to consult with the public concerning the appropriate level of FMR's and payment standards, these are essentially fact-based determinations which would be adjustable as appropriate to meet economic exigencies, rather than being subject to the delays occasioned by publication for comment.

Proposed revised section 8(d)(2) sets out the basic formula for determining the assistance to be made available for a family renting a unit under the modified program. The formula provides that the monthly assistance payment shall be the amount by which the (local) payment standard exceeds 30 percent of the family's monthly adjusted income.

However, this formula is subject to a "minimum rent" exception. The assistance payment amount also may not exceed the amount by which the actual rental cost (rent to the owner plus allowances for utilities paid directly by the tenant, if any) exceeds the greater of 10 percent of family income or welfare rent.

Thus, the minimum rent exception places a cap on the assistance payment and assures that a significant contribution toward the cost of the dwelling is made by the assisted family. Finally, the provision limits the maximum amount of the monthly assistance payment for any family to the amount by which the payment standard exceeds 30 percent of the family's monthly adjusted income at the time it enters the program. This feature is intended to assure that available contract authority will be adequate to provide assistance to the family for the duration of the five-year ACC term.

Families receiving assistance under the modified program will also be able to move to other areas—even other States—and retain their right to receive housing assistance under the program, but the amount of assistance available to a family making such a move would continue to be limited to the amount by which the payment standard exceeded 30 percent of the family's monthly adjusted income at the time the family first received assistance.

Proposed revised sec. 8(d)(3) provides that only families determined to be very low-income (i.e., at or below 50 percent of area median) may qualify for assistance under the modified program, unless the family had been previously receiving assistance under the United State Housing Act of 1937. Preference is required to be given to families which, at the time they are seeking assistance, occupy substandard housing, are involuntarily displaced, or are paying more than 50 percent of family income for rent.

The first two of these preference criteria are already included in the United States Housing Act of 1937. The 50 percent of income for rent preference criterion is proposed for addition as a new statutory preference, in recognition of the fact that rent burden is a factor to be considered in determining those in need of housing assistance. Administrative action to add the new preference category to the public housing and section 8(c) preference criteria is being undertaken by regulation.

However, proposed subsection (d)(4) would authorize the Secretary to override the normally applicable preference criteria in order to use annual contributions contract authority for special purposes. Thus, the Secretary under the modified program could use certificates for (1) families who previously were assisted under the public housing or present Section 8 program, (2) eligible families occupying units in formerly assisted projects acquired by the Secretary, or (3) families in units being rehabilitated under the proposed Rental Rehabilitation Program.

Subsection (d)(5) provides a rule applicable to so-called "vacancy payments" in the modified program. Payments for vacant units would be limited to the month during which the tenant leaves the unit.

Under subsection (d)(6), assistance payment contracts under the modified program would be limited to a term of five years or less. PHA's would be required to inspect a unit selected for occupancy by a family holding a certificate, to determine that the unit met housing quality standards set by HUD before any assistance payment could be made. Thereafter, the contract would require annual or more frequent houisng quality standard inspections by the PHA during the contract term. If a dwelling unit failed inspection, no assistance payment could be made unless the failure was promptly corrected and the PHA verified the correction.

Section 8(j) of the United States Housing Act of 1937, authorizing special terms and conditions for section 8 assistance to families renting manufactured homes and spaces or manufactured home spaces, is also revised to accommodate a certificate program for such units.

AMENDMENTS AFFECTING TENANT RENTS OR CONTRIBUTIONS

Section 203 proposes certain changes in the 1937 Act and in the gradual implementation provisions of the Omnibus Budget Reconciliation Act of 1981 occasioned by the proposed modified certificate program amendments contained in Section 202 of this bill. The requirement for annual review of family income has been moved from section 8(c)(3) to section 3(a) of the Act, to make the same annual recertification requirement applicable to both the present Section 8 authorities and the new modified Section 8 program.

The rent payment formula in section 3(a) of the Act is revised to provide that the 3(a) formula does not apply to "rents" paid by certificate holders under the modified Section 8 Existing Housing Program. (A similar, but not identical formula for determining assistance levels under the modified program is set out separately in a proposed revised section 8(d)(2) of the 1937 Act.) Certificate holders under the modified program will pay "rent" at levels higher or lower that those provided for in 3(a), depending upon the price of housing selected by those families and the amount of subsidy produced by application of the payment standard formula.

Section 3(b) of the Act is proposed to be amended to clarify that the Secretary may establish income ceilings higher or lower than 50 percent of median on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. The Secretary already has this adjustment authority for establishing income ceilings higher or lower than 80 percent of median, and comparable authority at 50 percent of median is appropriate, especially in light of the continued shift of emphasis toward assistance for very low-income families.

Section 322(i) of the Omnibus Budget Reconciliation Act of 1981 gives the Secretary discretion to provide for the gradual phase-in of the rent increases (from 25 to 30 percent of adjusted income) enacted last year for tenants receiving assistance when that Act was enacted. Rent increases resulting from this phase-in and from changes in Federal laws dealing with what benefits can be "counted" as income for housing assistance purposes are limited by this provision to 10 percent a year.

Subsection (c) of this section would amend section 322(i), first, to provide also for the gradual phase-in of rent increases caused by the shift to a payment standard-based modified certificate program, second, to extend the gradual phase-in feature of the 1981 Act to tenants occupying assisted housing at or before the time regulations implementing the modified certificate program become effective, and third, to raise the annual percentage limit on rent increases from 10 percent to 20 percent.

The amendments would require the Secretary to assure that no family assisted at the time the modified certificate amendments are implemented would experience an increase in rent or contribution, as appropriate, greater than 20 percent in any 12-month period, if that increase were attributable to (1) percentage-of-income increases mandated by the Omnibus Budget Reconciliation Act of 1981; (2) modified certificate program amendments in this bill and (3) any other provision of Federal law redefining which governmental benefits are required or permitted to be considered as income. Any combination of these factors—which would otherwise cause a family's statutory contribution toward the cost of assisted housing to increase by more than 20 percent a year—would be limited to 20 percent per year, until the full effect of the (1981 and 1982) amendments is realized. In addition, the amendments would apply 1981 and 1982 gradual implementation provisions to the determination of a family's contribution under the new modified certificate program.

Tenants who were not occupying assisted housing at the time the modified certificate amendments are implemented would be subject to immediate rent payment or contribution determinations in accordance with applicable law, with no "phase in". However, any such tenant who was occupying assisted housing at the time of a (future) change in Federal law redefining which governmental benefits are required to or may be considered as income would have the effect of such a change in law limited by a 20 percent increase cap.

INCREASED AUTHORITY FOR PAYMENTS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS

Section 204 would amend section 9(c) of the United States Housing Act of 1937 to authorize appropriations for payments for operation of low-income housing projects of not to exceed $1,075,000,000 for the fiscal year beginning on October 1, 1982, and such sums as may be necessary for the fiscal year beginning on October 1, 1983.

The 1983 estimate reflects adjustments in operating subsidies based on proposed procedural and regulatory changes affecting tenant rent payments and PHA operations, more efficient PHA management, increased support anticipated to be provided by State and local governments and anticipated savings which are estimated to result from ongoing efforts to improve the energy efficiency of public housing projects. Included in the adjustments is the impact of increasing the maximum allowable tenant rent contribution to 27 percent of income in 1983 for existing public housing tenants (to reflect the second-year increment of increasing the rent-income ratio to 30 percent of income by 1986) and charging 30 percent of income for all new public housing tenants. The Administration also is proposing legislation to include Food Stamps in the calculation of tenant income and increase the maximum percentage that rents can be increased in any single year from 10 percent to 20 percent.

DEMOLITION OF OBSOLETE PUBLIC HOUSING

Section 205 would amend section 14 of the United States Housing Act of 1937 to make the criteria for public housing demolition the same under the Comprehensive Improvement Assistance Program as under section 6(f) of the Act (dealing with the close-out of public housing projects). Thus, HUD could approve applications for demolition of public housing where the project or any portion of it proposed for demolition is obsolete as to physical condition, location or other factors, making it unusable for housing purposes, and no improvement program is feasible. Applications for partial demolition incident to a program of modifications could be approved subject to a determination that the demolition would help to assure the useful life of the project.

The proposed amendment would also permit the approval of assistance for demolition of unusable public housing projects without regard to the general application requirements pertaining to section 14(b) funding, in similar fashion as applications for funding of special purpose needs under section 14(i). The general application requirements, which relate to planning and management, have little relevance to applications exclusively for demolition of such housing. As application for such funding is more closely analogous to a recognized special purpose needs application, and should be handled in the same manner. Applications which include partial demolition incident to the rehabilitation of other remaining units would still be subject to the general application requirements for funding of applications under section 14(b).

The proposal would not continue section 14(f)'s requirement that PHA's undertake timely replacement of units demolished. This requirement could result, if continued, in costly operation of clearly obsolete projects or parts of projects solely because there are insufficient resources available to provide replacement units. Use of the section 6(f) criteria for funding eligibility would assure that demolition decisions are made on the basis of the condition of the project in question. At the time applications are approved, the Secretary would be required to determine that decent, safe, sanitary and affordable relocation housing was available, as under the current section 14. In order to protect tenants displaced by demolition, HUD would be authorized to make available Modified Section 8 Housing Certificates for them. A total of 5,000 Modified Section 8 Existing Housing Certificates are budgeted in fiscal year 1983 for tenants of public housing units that are sold or demolished.

PURCHASE OF PHA OBLIGATIONS

Section 206 would repeal section 329E of the Omnibus Budget Reconciliation Act of 1981. That provision places an aggregate limit of $400 million on the amount of contracts HUD can enter into for payments to the Federal Financing Bank (FFB), after October 1, 1981, to cover the difference between tax-exempt rates of public housing obligations purchased by the Bank and the higher cost to the Bank of financing such purchases with funds it borrows at taxable rates. The authorized amounts would be adequate for the financing through the FFB of only $276 million in public housing authority obligations. In contrast, about $1.2 billion of new loan approvals will be made in each of fiscal years 1982 and 1983, which will require financing in the short-term tax-exempt market by fiscal year 1985. In addition, $17.1 billion of short-term notes will be sold on the private market in 1982. This total includes the rollover of previous short-term financing, some of which may be rolled over several times during the year.

This provision unduly restricts HUD's ability to continue use of the FFB as a financing mechanism for public housing obligations. The Bank offers a means of providing permanent financing for the obligations on a taxable, rather than a tax exempt, basis. The limit contained in the Reconciliation Act would force HUD to finance a large portion of public housing debt through either the costly and uncertain mechanism of short-term, tax-exempt notes or the sale of long-term, tax-exempt bonds on the private market. The Administration generally opposes use of tax-exempt financing because of the hidden and significant revenues forgone through use of this mechanism.

The repeal of section 329E would return HUD to the position of being able to rely on the authority of the Federal Financing Bank Act of 1973 for the use of the Bank for public housing financing. As in the past, the volume of financing would be controlled through HUD's appropriation Act.

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

Section 207(a) would amend section 201 of the Housing and Community Development Amendments of 1978 to delete the Secretary's discretionary authority to provide operating subsidies under section 201 to troubled multifamily housing projects which, though HUD-assisted, are not covered by a mortgage which is insured or was formerly insured under the National Housing Act. Under existing section 201(c)(1)(A), projects which are assisted under the section 236 program of the National Housing Act or the rent supplement program of the Housing and Urban Development Act of 1965 are eligible for assistance, even if not covered by a mortgage insured under the National Housing Act.

This proposal would restore the coverage of the "troubled projects" program to that originally proposed by the Department in 1978. It would permit scarce resources to be directed toward insured projects so as to prevent mortgage assignments and foreclosures and mitigate otherwise potentially excessive losses resulting from insurance claims, as well as to avoid substantial rent increases and physical deterioration in HUD-assisted projects for which the Department has a direct responsibility. Responsibility for further assistance to projects which are not insured by HUD should be borne by State and local government.

The amendment also would have the effect of limiting the requirements of section 202 of the Housing and Community Development Amendments of 1978 to HUD-insured projects. Section 202 requires the Secretary to assure, among other things, that tenants of projects eligible for troubled projects funding have a chance of participate in certain project management decisions and are permitted to organize tenant associations to represent tenant interests.

Extension of these requirements to State-aided, uninsured projects appears to have been unintentional. The Senate provision from which section 202 was drawn applied only to HUD-insured projects. The conference report indicates that the Senate provision was adopted, with an amendment to "conform" its coverage to that of the troubled projects program. Research has indicated no conscious intent to apply section 202's provisions to State-aided projects. The Department believes that the proposed change is appropriate, since the relationship between the responsible State agencies and tenants of State-aided projects should be a matter for these parties to work through without Federal intervention.

Section 207(b) would amend section 236(f)(3) of the National Housing Act to extend through September 30, 1984 the period during which amounts in the section 236 rental housing assistance fund may be approved in appropriation Acts for use in the Troubled Projects Program. Existing law subjects the making of payments from the fund to approval in an appropriation Act, and prohibits any amount from being so approved for any fiscal year beginning after September 30, 1982.

This proposed amendment is necessary to permit amounts in the rental housing assistance fund to be used for the Troubled Projects Program during fiscal years 1983 and 1984. The Department intends to request approval, in the HUD appropriation Act for fiscal year 1983, to use the $24 million expected to be received in the rental housing assistance fund during that year.

HOUSING FOR THE ELDERLY AND HANDICAPPED

Section 208 would amend section 202(d)(2)(B) of the Housing Act of 1959 to delete the requirement (added in 1978) that non-profit entities receiving loans for developing housing for the elderly and handicapped must include, on their governing boards, members selected in a manner to assure significant representation of the views of the community in which the project is located.

A significant number of national organizations which are active sponsors of Section 202 housing have objected strenuously to this requirement. The sponsors have pointed out that, as national organizations, it is impossible for them to have representatives on their governing boards from all communities in which they may wish to operate. Similar concerns have been expressed by State-wide housing corporations, as well as county and community groups, which find it difficult to have representatives from all areas in which they intend to operate. The existing requirement of section 202 curtails participation by many organizations which have been organized specifically to share resources and to develop a more comprehensive and coordinated approach to providing housing for the elderly or handicapped. Moreover, with the exception of one or two isolated cases, there is no evidence of the need for this provision.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

Section 301 of the bill would extend for two years (through September 30, 1984) the authority of the Secretary of Housing and Urban Development to insure mortgages or loans under certain HUD-FHA mortgage or loan insurance programs contained in the National Housing Act. A one-year extension is proposed for the section 235 program of homeownership for lower income families.

Under existing law, the authority of the Secretary of Housing and Urban Development to insure mortgages and loans under these programs will expire on September 30, 1982. After that date, the Secretary may not insure mortgages or loans under any of the major HUD-FHA insuring authorities contained in the National Housing Act, except pursuant to a commitment to insure issued before that date.

Insuring authorities which will expire on September 30, 1982 and are proposed for two-year extension include those for the following HUD-FHA mortgage or loan insurance programs: title I—property improvement and manufactured home loan insurance; section 203—basic home mortgage insurance; section 207—rental housing insurance; section 213—cooperative housing insurance; section 220—rehabilitation and neighborhood conservation housing insurance; section 221—housing for moderate-income and displaced families; section 222—mortgage insurance for servicemen; section 223—miscellaneous housing insurance, including insurance in older, declining urban areas and for existing multifamily housing projects and hospitals; section 231—housing for the elderly; section 233—experimental housing; section 234—condominiums; section 237—special mortgagors; section 240—homeowner purchases of fee simple title; section 241—supplemental loans for multifamily housing projects, health facilities and energy conserving improvements; section 243—homeownership for middle-income families; section 244—mortgage insurance on a co-insurance basis; section 245—mortgage insurance on graduated payment mortgages; and title X—land development. The text of the extension for section 245 appears in the proposed rewrite of that provision in section 316 of this bill.

The proposed extensions of the above-listed mortgate insuring authorities are designed to guarantee the continued availability of FHA mortgage insurance and thus to maintain and enhance the Department's capacity to contribute to achievement of the national housing goal of "a decent home and a suitable living environment for every American family."

Last year, an extension of one year only was requested for section 235 of the National Housing Act, in order to assure that units in the pipeline could be insured. Amendments contained in the Housing and Community Development Amendments of 1981 and in the International Banking Facility Deposit Insurance Act (Public Law 97-110, approved December 26, 1981) provided special instructions regarding the Secretary's authority to enter into new contracts for assistance payments in connection with section 235 mortgages.

First, the Secretary may not enter into new assistance payments contracts after March 31, 1982, except pursuant to a firm commitment (i.e., an insurance commitment) issued on or before that date.

However, an exception to the March 31, 1982 firm commitment cutoff date is provided for "other" commitments which were "issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under [section 235] where such housing is included in [an Urban Development Action Grant project]."

Finally, Public Law 97-110 provided still another exception to the March 31 firm commitment cutoff date for "other" commitments which meet all the following criteria:

Issued on or before September 30, 1981;

Involve section 235 housing to be developed on land which was municipally owned on that date; and

Involve a local government contributing at least $1000 per unit from CDBG funds and $2000 per unit of additional funds to assist the section 235 housing.

Section 235(h)(1), which governs section 235 assistance payments, goes on to provide that "in no event may the Secretary enter into any new contract for assistance payments . . . after September 30, 1983."

It is unclear that all categories of persons seeking assistance payments contracts described in section 235(h)(1) of the Act will have adequate opportunity to secure firm commitments for insurance before September 30, 1982—the current law's expiration date for insurance under section 235(m). Since section 235(m) only authorizes insurance after September 30, 1982 pursuant to commitments to insure made before that date, some of the persons sought to be assisted by the above-discussed section 235(h) "saving" provisions might be unable to secure an insured mortgage unless the insuring authority is extended. The proposed amendment would provide, however, for unconditional termination of section 235 insuring authority after September 30, 1983.

Extensions have not been included for the following provisions of the National Housing Act: section 235(q) (countercyclical economic stimulus), section 236 (rental and cooperative housing for lower income families), section 232 (nursing homes), section 242 (hospitals), title VIII (armed forces-related housing) and title XI (group practice facilities).

The section 235(q) authority (countercyclical economic stimulus), scheduled to expire on September 30, 1982, is not proposed for extension. This emergency authority has never been activated.

Section 236 was also extended for one year by the Housing and Community Development Amendments of 1981 to permit projects in the pipeline to be processed. Most such projects have now been processed or cancelled, and those still in the pipeline have secured commitments which will make possible the provision of insurance after September 30, 1982 pursuant to a commitment to insure made before that date. Thus, there is no necessity to extend the insuring authority.

An extension of the authority to provide insurance for nursing homes and intermediate care facilities under section 232 is not being sought beyond the present September 30, 1982 expiration date. Nursing homes and intermediate care facilities are eligible for Medicare and Medicaid reimbursement. Many such facilities currently in existence have been developed and financed without the benefit of federally insured mortgages. Section 232 has not been a high-volume mortgage insurance program, and there appears to be no reason to believe that the private market cannot meet the financing needs of such facilities in the absence of the section 232 program.

The Section 242 hospital insurance program similarly would appear to require no extension. The Administration's attempts to bring cost containment to the health and medical sector, plus the fact that many areas are already over-bedded due to excess hospital facilities, suggest that only a very limited need exists for financing hospitals. Since the private market has provided financing to many of the hospitals currently in existence, and appears quite capable of meeting credit needs in those few cases where new hospital construction is appropriate, extension of section 242 is not being sought beyond the current expiration date of September 30, 1982.

The authority to insure armed forces housing under title VIII of the National Housing Act (sections 809-810) is not proposed for extension beyond the current September 30, 1982 expiration date. These programs have been inactive for several years; no insurance was written under their authority during fiscal year 1981, and no applications for insurance are currently pending.

Finally, there has been little activity under the Title XI authority to insure Group Practice Facilities, suggesting that whatever need exists is being met adequately by the private market. Accordingly, no further extension of this authority is being sought.

Under all four of these programs—section 232, 242, Title VIII and Title XI—commitments to insure entered into before the scheduled September 30, 1982 expiration date will be honored after that date.

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

Section 302 would amend section 519(f) of the National Housing Act to authorize the appropriation of such sums as may be necessary to cover losses of the General Insurance Fund. Existing law contains an overall ceiling on the amounts which may be appropriated for this purpose.

Losses sustained as a result of the sale of acquired property are not a function of the amount authorized for appropriations to restore the losses. The losses represent the difference between the purchase price of units acquired through the Department's insurance activities, expenses incurred through maintenance and repair and the proceeds realized from sale of these properties. The authorization does not limit the loss but merely places a limitation on the amount which may be sought in recompense for losses already sustained. The present authorization limitation requires the Department to seek an increase in the amount authorized for appropriation before an appropriation to restore the losses can be enacted. The proposal would simplify this process by authorizing the appropriation of the sums necessary for this purpose.

RESEARCH AUTHORIZATIONS

Section 303 would authorize the appropriation of $20 million in fiscal year 1983 and necessary sums for fiscal year 1984 for the Department's Research and Technology Program. Particular areas of study in fiscal year 1983 will include:

Strategies for increasing the efficiency and effectiveness of assisted-housing programs through reforms of existing programs and evaluation of alternative programs;

Analysis of (1) the relationship between tax policies and housing, (2) alternative housing finance mechanisms (such as alternative mortgage instruments), (3) financial institution regulation and reform, and (4) alternative tax and other financial incentives for housing;

Ways to reduce the component costs of housing (costs of development, building, financing, and operating);

Development and dissemination of better methods for community management and delivery of local government services;

Identification of successful neighborhood strategies;

Analyses of new or improved alternatives for urban economic development, including an examination of enterprise zones, the role of small businesses, regulatory and tax relief, public finance and tax policy, changes in capital investment by cities, the impact of Federal tax and grant policies on central cities, and the formulation of a viable and realistic urban policy; and

Issues related to fair and nondiscriminatory housing.

ELIMINATION OF REQUIREMENTS THAT FHA INTEREST RATES SET BY LAW

Section 304 would amend the insuring authorities in the National Housing Act which are proposed for extension beyond fiscal year 1982 (except section 235) to allow an insured mortgage or loan to bear interest at a rate agreed upon by the borrower and the lender. These authorities are: title I—property improvement and manufactured home loan insurance; section 203—basic home mortgage insurance; section 207—rental housing insurance; section 213—cooperative housing insurance; section 220—rehabilitation and neighborhood conservation housing insurance; section 221—housing for moderate-income and displaced families; section 231—housing for the elderly; section 234—condominiums; section 240—homeowner purchases of fee simple title; section 241—supplemental loans for multifamily housing projects, health facilities and energy conserving improvements; and title X—land development.

The proposal would repeal section 3 of P.L. 90-301—HUD's interim authority to establish maximum FHA interest rates—as well as section 4 of that Act, which established a commission on interest rates which expired in 1969.

The amendment to section 235 would provide for continuation of the Secretary's authority to set interest ceilings, essentially in the same manner as is authorized under present law in Public Law 90-301. This reservation of authority for purposes of section 235 mortgages is necessary to close out, during fiscal 1983, the section 235 homeownership program for lower income families. Since the section 235 subsidy is the difference between the actual interest rate on the mortgage and a below market rate set by HUD, to allow negotiated interest rates in this program might prove prohibitively expensive. Since the authority to insure under section 235 is proposed for expiration on September 30, 1983, the need for a continuation of Secretary-established interest ceilings is only temporary.

The administered ceiling on the FHA contract interest rate has outlived its usefulness. The ceiling is an outdated manifestation of concern that some lenders would take advantage of buyer ignorance and charge an "above market" rate of interest. Mortgage rates were relatively stable in the post-WW II years by today's standards, but differed among various regions of the country. This difference reflected the relatively greater demand for funds in some areas and the immobility of mortgage funds across regions. In the interest of promoting a truly national mortgage market and facilitating the flow of funds between regions, FHA attempted to set a national mortgage rate.

Over the years the perception had developed that, by setting a ceiling, FHA determines mortgage interest rates. This is simply not the case. FHA mortgages are sold to investors at market yields. Investors discount the loans to bring the yield up to those available on alternative investments. These discount "points" can be ultimately passed on to borrowers, typically in the price charged by the seller.

Mortgage markets are now national in scope and extremely competitive. Homebuyers can readily obtain information on the going rate for a mortgage loan, and can negotiate for themselves a market interest rate. Thus, the ceiling is no longer needed.

The recent volatility in interest rates has made the ceiling extremely difficult to administer. The FHA ceiling must reflect current market interest rates if homebuyers are to obtain mortgage credit. When interest rates move by as much as five discount points within a week, as they have recently, it becomes increasingly difficult to administer the contract interest rate effectively.

In summary, the FHA will follow the conventional mortgage market by letting the borrower and lender determine the mortgage interest rate.

TREATMENT OF FHA SINGLE FAMILY MORTGAGE INSURANCE PREMIUMS

Section 305 would amend the single family insuring authorities of the National Housing Act to exclude the amount of the mortgage insurance premiums paid at the time the mortgage is insured from the applicable maximum mortgage and down payment requirements. These changes are intended to complement the Department's proposed revision to the single family insurance premium collection structure. Under this plan, the Department will, by regulation, require the purchaser to pay at the time of settlement the total expected amount of premium due, based upon the average expected term of the loan. The premium will be calculated on a discounted present value basis and will be considered as an eligible expense, included within the amount of the approved loan.

This new procedure will result in significant reductions to the workload of the Department, and also will free loan servicers from the monthly remittance requirement on new loans. The change is expected to have only a small impact on the home purchaser's monthly payment requirement, while increasing premium receipts early in mortgage life.

Under current law, however, the amount of the mortgage insurance premium payable at settlement is included in the amount of the principal obligation of the loan against which the statutory maxima are applied. If the higher amounts contemplated by the new procedure were similarly included, there would be a corresponding decrease in the insurable mortgage amount attributable to the dwelling being purchased. The proposed amendments would prevent this result by excluding the amount of the premium from the maximum mortgage determinations. Similarly, since insurance premiums are presently included in determining down payment amounts, the amendments would exclude them from down payment determinations. The amendments would, however, not reduce the amount of insurance protection which is afforded the lender.

NON-OCCUPANT SINGLE FAMILY MORTGAGORS

Section 306 would provide higher maximum mortgage amounts for non-owner-occupant, one- to four-unit dwellings insured under section 203(b) of the National Housing Act.

Present law limits the principal amount of an owner-occupant mortgage which may be insured under section 203(b) to the lesser of specified dollar amounts or loan-to-value ratios. Thus, the maximum insurable amount for a typical single family home is the lesser of $67,500 or the sum of 97 percent of the first $25,000 of value and 95 percent of the remainder. Section 203(b)(8) of the Act limits the maximum insurable amount for investor-owners to 85 percent of the owner-occupant ceiling. Thus, for a typical single family home, the limit is 85 percent of $67,500, or $57,350.

This amendment would set the investor limit at the lesser of the otherwise applicable dollar amount or 85 percent of the otherwise applicable loan-to-value ratio for owner-occupied units. This would make the maximum dollar amount which may be insured for investors the same as that for owner-occupants, while at the same time retaining existing restrictions on the percent of value which could be insured for investor-owners. The proposed change would help stimulate investor interest in one- to four-unit dwellings, thereby resulting in increased rental housing supply.

PREMIUM CHARGES FOR INSURANCE OF ALTERNATIVE MORTGAGE INSTRUMENTS

Section 307 would authorize the Secretary to increase, if necessary, premium charges for insurance of mortgages involving alternative financing mechanisms such as graduated payments, adjustable interest rates, shared appreciation, or growing equity.

Section 203(c) of the National Housing Act authorizes the Secretary to vary premium charges for the insurance of mortgages under the separate sections of title II of the National Housing Act, but premium charges among mortgages insured under a particular section of the Act must be uniform. The alternative mortgage plans proposed to be authorized pursuant to revised section 245 and proposed new sections 247, 248 and 249, (and other alternative mortgage instruments which may be developed under existing authority) may require additional premium charges to make the provision of insurance actuarially sound. Alternative financing mechanisms are intended to be used in conjunction with existing basic mortgage insurance statutes contained in title II. Thus, for example, a single family home with an adjustable rate mortgage might be insured "under" section 203(b), "pursuant to" section 247. This amendment would make clear that, when alternative financing is used in conjunction with a particular section of title II authorizing insurance, the Secretary may provide for premium charges which are not the same as those which would be applicable to a level payment mortgage insured under the same section, and that premium charges applicable to such alternative mortgage instruments may exceed 1 percent per year where necessary.

MODIFICATION OF FHA DEBENTURE TERMS

Section 308 would eliminate the statutory requirement that any debentures issued by the FHA in payment of insurance claims be redeemable at par. Mortgagees frequently use these debentures for payment of insurance premiums under the various insurance programs. Permitting lenders the option of redeeming debentures at par in exchange for premiums has had a serious impact on the actuarial calculations involved in writing mortgage insurance in a manner consistent with sound financial management. Debentures submitted for redemption usually are worth substantially less than par. This is because the interest rate on these debentures is tied, at the time of origination, to the prevailing rate on outstanding long-term Treasury obligations, and that rate does not necessarily reflect the prevailing market rate at the time of redemption. The debentures so used, therefore, can result in a significant loss of FHA insurance fund revenues.

DISCRETIONARY AUTHORITY TO REGULATE RENTS AND CHARGES

Section 309(a) would remove language in section 207 of the National Housing Act mandating that the Secretary regulate project rents and rates of return, and would substitute discretionary authority in the Secretary to provide for such regulation. This change (and the parallel amendment of section 234(d)(2) contained in subsection (b)) would conform these authorities to other National Housing Act multifamily authorities (sections 220(d)(2)(A), 221(d)(4), and 231) which provide for discretionary authority to regulate rents and charges.

The purpose of these changes is to permit the Department to deregulate rent levels in unsubsidized insured projects. Deregulation is expected to help assure the financial stability of insured projects, and will reduce administrative costs for the Department by eliminating the review and processing of applications for rent increases.

It should be noted that such deregulation would have applicability, not only to future unsubsidized project mortgages, but to existing mortgages as well. After appropriate regulatory changes were promulgated pursuant to these amendments, existing mortgagors would be invited to amend their regulatory agreements to remove requirements for HUD approval of rent increases. The Department would, however, reserve the right to resume regulation of rents and charges for any such project in the future.

MORTGAGE INSURANCE FOR MANUFACTURED HOME PARKS FOR THE ELDERLY

Section 310 would amend section 207(b)(2) to permit the insurance of manufactured home parks designed exclusively for occupancy by the elderly. Present law states that the insurance of section 207 mortgages is intended to facilitate particularly the production of rental accommodations "suitable for family living." Section 207(b)(2) goes on to prohibit the provision of insurance under section 207 unless the mortgagor certifies under oath that there will be no discrimination "by reason of the fact that there are children in the family. . . ."

The proposed amendment would retain this basic rule, but would provide language clarifying that exception may be made with regard to manufactured home parks designed exclusively for the elderly. Recent surveys indicate that about one-third of all manufactured home units are occupied by elderly persons. Since section 207 is the only authority for insuring manufactured home parks, the change in section 207(b)(2) proposed in this section of the bill is necessary to meet the need for insurance to develop parks designed, constructed and managed for occupancy exclusively by the elderly.

INCREASED MORTGAGE LIMITS FOR SUBSTANTIAL REHABILITATION

Section 311 would amend the mortgage limit provisions of Sections 220, 221(d)(3) and 221(d)(4) of the National Housing Act to facilitate refinancing to perform substantial rehabilitation. Currently under these provisions, the limits on mortgages for substantial rehabilitation of properties are 90 percent of the sum of the cost of repair plus the value of the property before rehabilitation. However, where there is an existing mortgage, and application to insure a new mortgage under one of these provisions is made, the mortgage limits would be 90 percent of the sum of the estimated cost of repair plus the existing indebtedness (rather than the value of the property before repair). The amendment would delete the latter formula, so that the mortgage limits would be the same for refinancing as it is for new financing for substantial rehabilitation.

The limitation involving existing indebtedness for refinancing in the current laws prevents owners from realizing any of their equity if they wish to rehabilitate a project and retain ownership. This forces sales of the properties if the owners are to realize any equity from the projects. This limitation is contrary to a policy of encouraging rehabilitation and retention of rental property by present owners. As a result of this inequity, many projects requiring rehabilitation cannot receive the benefits of rehabilitation without the sale to another owner.

ASSIGNMENT OF SECTION 221(g)(4) MORTGAGES TO THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Section 221(g)(4) permits mortgagees holding section 221 mortgages which are not in default to assign them—twenty years from the date of insurance endorsement—to the Secretary, and to receive the benefits of insurance.

The purpose of this amendment is to authorize the Secretary to direct mortgagees exercising this assignment option to deliver the mortgage and credit instruments directly to the Government National Mortgage Association. Upon such an assignment to GNMA, the rights of the mortgagee would be identical to those provided in the present law. The amendment proposal would, however, establish a more effective process within HUD for dealing with these assignments. GNMA, acting as agent for the Secretary, would take delivery of the mortgages and would pay for them with debentures issued pursuant to the current procedure outlined in section 221(g)(4). These debentures would be debited against the FHA fund. Upon sale of the loans, GNMA would provide the proceeds to FHA. GNMA would be reimbursed for all administrative costs.

Without this amendment, FHA could continue to be responsible for taking assignment and servicing these mortgages, but an increase in staffing in HUD's Office of Finance and Accounting would be required, since that office is not prepared to take on the additional responsibility caused by the forthcoming eligibility of numerous section 221 mortgages for 20-year assignment.

Explicit statutory authority to instruct mortgagees to transfer these mortgages directly to GNMA would eliminate the paperwork and time delays within HUD involved in requiring receipt of the mortgages by the Office of Finance and Accounting, and subsequent transfer to GNMA for purposes of handling debenture issuance and subsequent sale of the mortgages.

GNMA has the greater experience in handling such sales, and will also be in a position to "space" its sales, so that HUD mortgages will not be sold in competition with GNMA's own mortgage sales.

TERMINATION OF SECTION 221 BUY-BACK PROVISION

Section 313 would amend section 221(g)(4) of the National Housing Act to eliminate the "buy-back" feature of that provision with respect to commitments to insure under section 221 entered into after the effective date of the Housing and Community Development Amendments of 1982. Section 221(g)(4) now permits mortgagees to assign to HUD current mortgages which are in their 20th year of amortization. HUD exchanges the mortgages for debentures at the going rate for the face value of the outstanding debt. The proposal would only affect those mortgages for which commitments to insure were made after the effective date of the provision.

Because of the current high interest rates, it has become more and more advantageous for mortgagees to assign mortgages to HUD and take debentures at the "going rate" of interest. This proposal would avoid expected future losses to the FHA insurance funds based on business transacted after the provision's effective date.

MORTGAGE INSURANCE FOR CONDOMINIUMS

Section 314 would amend section 234(c) of the National Housing Act to allow insurance of any condominium unit in a project that has been approved by the Secretary. The proposal expands HUD's authority to permit insuring individual condominium units in a project by eliminating the conditions to such insurance contained in existing law. Under current law, HUD may insure individual condominium units if one of the following conditions is met: (1) the project is or has been FHA-insured or VA-approved; (2) there are less than 12 units in the building; or (3) if the building has 12 or more units, it is more than a year old.

Elimination of these conditions would lessen the constraints on insured financing for condominium units and would result in expanded homeownership opportunities. Additionally, the proposal would simplify the insuring process and eliminate the amount and degree of FHA review and regulation.

This proposal would also bring HUD into line with what the Veterans Administration has been doing for several years. Since 1974, the VA has allowed insurance for any condominium unit. The enactment of identical FHA and VA condominium insuring authorities would facilitate implementation of section 905 of the Housing and Community Development Amendments of 1978, which as part of the paperwork reduction program, suggested that HUD, VA, and FmHA develop uniform application and other requirements for single family and multifamily programs.

REMOVAL OF RESTRICTION ON FHA CO-INSURANCE

Section 315 would strike the second and third sentences of section 244(d) of the National Housing Act. These provisions limit the amount of mortgages and loans which may be insured on a coinsured basis by the FHA to 20 percent of the aggregate principal amount of all mortgages and loans insured under Title II of the Act. The 20 percent limitation also applies separately to multifamily and single family mortgages.

With respect to multifamily mortgages, HUD anticipates fewer insurance applications in both FY 1982 and FY 1983, as well as a drop in the overall amount of multifamily mortgage insurance written. This will occur at a time when HUD has developed regulations for coinsurance for purchase or refinancing of multifamily properties (under section 223(f)) and for private lender financing of new construction or substantial rehabilitation (under section 221).

State Housing Finance Agencies already may coinsure and perform delegated processing under section 221, which accounts for approximately two-thirds of FHA's multifamily business. The coincidence of diminishing overall multifamily insurance activity and increased policy and program emphasis upon coinsurance makes the existing 20 percent limitation factor of section 244(d) a severe inhibiting factor in carrying out FHA multifamily operations. Removal of the restriction will permit a more extensive and more effective FHA multifamily insurance program than would otherwise be possible.

With respect to single family insurance, HUD estimates that both applications and the amount of insurance written will increase in FY 1982 and FY 1983. In FY 1981, coinsurance written represented about 1.25 percent ($156 million) of single family insurance written ($12.5 billion). Although single family operations may continue to work within the 20 percent limit for the present, as in multifamily operations, HUD will be making improvements in its coinsurance regulations with a view toward making the coinsurance approach more attractive to lenders. HUD anticipates a substantial increase in coinsurance activity as a consequence.

The benefits of coinsurance are clear and compelling: it maximizes the role of the private sector, it reduces processing time through delegated processing, and it limits HUD's exposure to losses through risk sharing. By removing the current 20 percent restriction, increased cooperation and direct involvement of the private sector in FHA insurance programs will be possible.

ALTERNATIVE MORTGAGE INSTRUMENTS

Section 316 would expand the Secretary's authority to insure mortgages using alternative mortgage instruments. Subsection (a) would amend section 245 of the National Housing Act to consolidate the separate authorities now contained in section 245(a) and (b) into a single graduated payment mortgage (GPM) authority for one- to four-family dwellings in accordance with the more generous limitations now contained in section 245(b), and to eliminate certain restrictive features of the present section 245(b) GPM program. In addition, amendments are proposed in revised subsection (c) to make possible the use of GPM's for multifamily projects.

The proposed revisions to section 245(b) would delete the threshold requirement that a mortgagor be unable reasonably to afford to finance a purchase by means of any other mortgage insurance program. This change would make any otherwise qualified mortgagor eligible for an insured graduate payment mortgage.

Second, the requirement limiting section 245(b) insurance to mortgagors who have not owned dwelling units within the preceding three years would be stricken.

Finally, restrictions on the number of mortgages or the aggregate amount of initial principal obligation of mortgages insured under section 245 are also proposed to be removed.

Section 245(c) as proposed to be amended would provide authority for GPM's for multifamily insured projects. A major deterrent to the production of multifamily housing is the high cost of financing. Availability of GPM's would assure lower principal and interest payments on the mortgage in the early years of a project. Later, as debt service payments increased, reasonable rental increases would cover these costs. Use of the GPM approach in the multifamily context would assist the badly sagging rental housing market without the help of Federal subsidies.

GPM's for multifamily projects would not, however, have requirements identical to those applicable to single family insuring authorities. The initial principal obligation of a multifamily mortgage would not be permitted to exceed the percentage of value or replacement cost required by the particular title II insuring authority with which the GPM authorization was linked. During the term of the mortgage, the principal obligation (including interest deferred and added to principal) would not be permitted to exceed the property's projected value at any time.

Projected value of a multifamily project would be determined in the same manner as under current section 245 for single family dwellings—by means of a HUD calculation based on the initial value of the property, projecting increased value at a rate not to exceed 2½% per year.

Subsection (b) would provide authority for HUD to insure single-family Adjustable Rate Mortgages (ARM's) on a limited basis. Under the authority, insurance activity would be limited to 125,000 mortgages in any fiscal year. Interest rate adjustments would be indexed to a national interest rate index which the Secretary of HUD would specifically approve in regulations.

These FHA-insured adjustable rate mortgages would include safeguards for the consumer. To protect participating homeowners, statutory limits would control the size and frequency of interest rate adjustments. A limit of one adjustment per year, with maximum increases in the interest rate of 1 point a year and 5 points over the life of the mortgage, would be established. The mortgagee would be required to provide information to the mortgagor describing particular features of the variable rate mortgage, including a hypothetical "worst case" payment schedule.

At present, HUD cannot insure a mortgage financed with a variable interest rate. If inflation rates and interest rates remain high, the ARM is likely to become a primary mortgage instrument available to a purchaser in the conventional market. In that event, it would be desirable for FHA to be able to offer a choice between ARM's and fixed-rate mortgages.

Section 316(b) proposes a new section 248 of the National Housing Act which would provide authority for HUD to insure Shared Appreciation Mortgages (SAM's) for single-family housing. Insurance activity would be limited to 50,000 mortgages in any fiscal year.

Because of current economic conditions, including high and volatile interest rates, alternative mortgage instruments such as the SAM should be insurable by FHA in order to supplement the standard, fixed-rate mortgage, and to provide homebuyers with an alternative to the Department's Graduated Payment Mortgage (GPM) program and the proposed Adjustable Rate Mortgage (ARM). SAM's make possible substantial reductions in down payments, early year monthly mortgage payments or both, in return for a percentage share of any appreciation accruing to the property. The SAM is particularly well suited to prospective secondary market purchasers; to the extent effective yields are keyed to property appreciation, such mortgages in most cases will provide a direct hedge against inflation.

Under the proposal, a lender's share of the appreciated value of the property would be due and payable at the time the insured property is sold or transferred, or, in the event there is no such sale or transfer, upon payment of the mortgage.

By regulation, safeguards for buyers and owners would include maximum sharing provisions and full disclosure of the terms and conditions of the mortgage contract.

In the event of a default, the mortgagee would have a right to make an insurance claim, but insurance benefits would not include the mortgagee's share of net appreciated value.

This proposal reflects HUD's intent to serve first-time homebuyers, and to generally upgrade the Department's insuring authority to be responsive to current needs and effective in the current mortgage market.

Section 316(b) would also provide authority for HUD to insure Shared Appreciation Mortgages (SAM's) for multifamily housing.

In addition, subsections (c) through (f) would amend sections 207(c)(3), 220(d)(4), 221(d)(6), and 231(c)(5), respectively, to allow HUD discretion to insure loans which do not completely amortize over the loan term.

Current economic conditions have made the production of multifamily rental housing difficult. A particular problem facing the multifamily housing industry is the reluctance of lenders to invest in fixed-rate mortgages of 30 or 40 years duration. Alternatives to traditional long-term mortgage instruments need to be insurable by HUD in order to stimulate unsubsidized rental construction.

The multifamily SAM will allow HUD to insure loans of 15 years or longer which have level payment amortization schedules which would completely amortize in 30 years or less. Mortgagors would be allowed to take advantage of the generally lower interest rates available for shorter term financing.

Under the proposal, a lender's share of the appreciated value would be due and payable at the time the insured property is sold or transferred or at the expiration of the loan term.

Used either in tandem or separately, the multifamily SAM proposal and the proposed discretion in the Secretary to insure mortgages which do not provide for complete amortization will substantially lower the monthly mortgage payments on multifamily loans and thereby encourage the production of rental housing.

STRUCTURAL DEFECTS IN INSURED PROPERTY

Section 518(a) of the National Housing Act authorizes the Secretary to make expenditures to correct or compensate for structural defects in single family homes which were approved for FHA insurance prior to construction. Section 317 would amend section 518(a) to specify that the Secretary may also correct or compensate for structural defects in FHA-insured new homes which were approved for loan guaranty by the Veterans Administration prior to construction.

Section 203 of the National Housing Act states that VA loan guaranty, insurance or direct loan approval prior to the beginning of construction may be substituted for the Secretary's approval. The proposal would clarify that VA approval is the equivalent of the Secretary's for purposes of correcting or compensating for structural defects.

TIME OF PAYMENT OF PREMIUM CHARGES

Section 318 would amend section 530 of the National Housing Act to clarify that the Department's obligation to collect mortgage insurance premiums on a monthly basis, and to charge interest for late payment of monthly premiums, applies only to the Department's single family programs. The amendment would permit continuation of the existing practice of collecting premium payments from multifamily mortgagees on an annual basis, with interest payable only in the case of late remittance of the annual payment.

In the past, HUD has not required monthly collection of premiums for its multifamily mortgages. Premiums for those programs are paid by the mortgagor in advance and are escrowed by the mortgagee. Collection of these premium payments on a monthly basis would increase paperwork and would be staff-intensive. It would also unnecessarily disrupt existing finance and accounting operations, which are geared to annual receipt of such payments.

As amended, section 530 would continue to require that premiums be paid "promptly upon their receipt from the borrower" in the case of the single family programs, but would require, for all other insuring authorities, that premiums be paid "promptly when due to the Secretary" (i.e., annually). Interest payable to the Secretary would continue to be required for late payment of premiums, but such interest would accrue beginning twenty days after the mortgagee's receipt of premium payments from the borrower in the case of single-family mortgages, while in the multifamily programs, interest would be due for the period beginning twenty days after the premium payment's due date.

SINGLE FAMILY MORTGAGE INSURANCE ON INDIAN RESERVATIONS

Section 319 would add a new section to title V of the National Housing Act authorizing the Secretary to insure a mortgage covering a one- to four-family dwelling executed by a member of an Indian tribe covering property located on an Indian reservation without regard to limitations in the NHA, such as those regarding marketability of title, or any other statutory restriction which impedes the availability of mortgage insurance on Indian lands. The insured dwelling would have to be a principal residence.

The unique nature of the ownership of land on Indian reservations and laws governing the disposition of Indian land makes lenders unwilling to provide mortgage financing for housing on reservations. HUD cannot induce lenders to make mortgage loans by providing insurance because the National Housing Act has requirements for insurability relating to marketability of title that cannot be met by Indian reservation land. The proposal would enable the Secretary to make mortgage insurance available without regard to such statutory restrictions. Mortgages insured under this section would be obligations of the General Insurance Fund.

PROPERTY DISPOSITION AND RELATED AMENDMENTS

Section 203 of the Housing and Community Development Amendments of 1978 established policies and procedures for the management and preservation of HUD-owned multifamily housing projects. The statute directs HUD to manage and dispose of these projects in a manner that would protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary could strengthen the goals of (1) preserving housing units for use by low- and moderate-income families; (2) preserving and revitalizing residential neighborhoods; (3) maintaining the existing housing stock in a decent, safe and sanitary condition; (4) minimizing involuntary tenant displacement; (5) minimizing demolition; and (6) maintaining the project for the purpose of providing rental or cooperative housing. The statute also requires the Secretary to assure displaced tenants in covered projects the right to return to a repaired unit, to occupy another HUD-owned unit, to obtain assistance under the United States Housing Act of 1937 or receive any other appropriate relocation assistance.

Section 320 would amend section 203 to remove most of these restrictions on the management and disposition of HUD-owned property. The proposal would retain the requirement of 203(d)(1) of the Act that, whenever tenants of any HUD-owned multifamily rental project are to be displaced, the Secretary shall inform them of their pending displacement and of any available relocation assistance. More importantly, the proposal would authorize the Secretary to provide assistance under the new Modified Section 8 Existing Certificate Program to any very low-income tenant (50 percent of area median income or below) in HUD-owned projects assisted under the section 236, 221(d)(3), rent supplement or section 202 (other than section 8-assisted) programs. (Section 8-assisted 202's are excepted, since all previously assisted section 8 recipients will be eligible to receive a Modified Certificate, irrespective of their incomes.)

The Secretary's authority under section 203(e) of the 1978 Act—permitting the Secretary to request mortgagees to accept partial insurance benefits in lieu of an assignment—also would be retained.

Finally, the proposal would repeal section 367(b) of the Multifamily Foreclosure Act of 1981, which authorizes and, in some cases, directs the Secretary to require a purchaser at a foreclosure sale to continue to operate the project in accordance with the terms of the section 312 loan program or insurance program under which assistance was originally provided.

The proposed amendments are designed to remove the current restrictions on the management and disposition of HUD-owned properties so that the Secretary can handle these properties on a business-like basis. The present law mandates a bias toward the continued use of the property for low- and moderate-income housing, without a realistic regard for the economic consequences to the government of such continued use. This is especially true given the more limited potential for success of already financially troubled projects.

The proposed amendments would permit the Secretary to dispose of properties on a sound economic basis, while extending to eligible tenants displaced from assisted projects the benefits of the proposed Modified Section 8 Existing Certificate Program.

PREVENTION OF FRAUD AND ABUSE IN HUD-ASSISTED PROGRAMS

Section 321 contains a number of provisions to help prevent fraud and abuse in HUD's assisted programs. Subsection (a) would require an applicant for assistance under HUD programs involving loans, grants, interest subsidies, other financial assistance of any kind or mortgage or loan insurance to (1) include his or her social security number or employer identification number on forms designated by the Secretary and (2) sign a consent form authorizing the Secretary to verify and audit information furnished by the applicant and authorizing other government agencies and private sources to release information related to the determination of eligibility or benefit level or post-verification thereof. Information provided pursuant to this subsection would have to be confidential except for use pursuant to this section as determined by the Secretary.

Such information could include, but would not be limited to, wages, unemployment compensation, VA benefits, and benefits under the Social Security and Food Stamp Acts. Failure to comply with the requirements of this subsection would be grounds for rejection of the application or termination of participation in the program involved. The Secretary would define the term "applicant" for purposes of this subsection.

Subsection (b) would amend section 303(d)(1) of the Social Security Act to authorize State unemployment agencies to release information to HUD and public housing agencies concerning applicants' wage information and unemployment benefits.

Subsection (c) would provide that the entity responsible for determining eligibility and/or level of benefits under the United States Housing Act of 1937, section 101 of the Housing and Urban Development Act of 1965 or section 221(d)(3) or 236 of the National Housing Act, including PHA's and owners of such projects, shall deny participation in the particular program benefits to any applicant who knowingly and willfully made false or misleading statements, concealed any relevant facts or otherwise violated these Acts or any of their regulations.

Subsection (d) would amend section 214(b) of the Housing and Community Development Act of 1980 to extend the prohibition against financial assistance to certain aliens to include the 221(d)(3) program.

The Department must have social security numbers and employee identification numbers in order to make efficient and effective reviews of assistance eligibility and level, to reduce administrative error, and detect fraudulent transactions. The social security numbers are the only uniform and accurate means of identification, and their uniqueness makes it possible accurately to identify individuals in records of other agencies. Provision of the social security numbers and the applicant's consent to the Secretary obtaining data from other agencies, as required by subsection (a), would enable HUD to verify the accuracy of applicants' information and, accordingly, prevent fraud and abuse. The requirement to provide social security numbers is similar to that used in the food stamp program to prevent fraud. Additionally, the General Accounting Office has recommended enactment of such legislation on a government-wide basis.

Access to data bases maintained by State unemployment agencies, as authorized by subsection (b), is needed to enable the Department to undertake post-audit, quality control, and other investigative reviews based on computer matching to such data bases. This amendment would help the Department to assure that complete and accurate information has been submitted by beneficiaries of HUD programs. The Department of Agriculture has been given similar authority in connection with its Food Stamp program.

Subsection (c) would provide clear statutory authority for public housing agencies and owners of projects assisted under the section 8, rent supplement, section 221(d)(3) and section 236 programs to disqualify applicants from eligibility for admission or for continued benefits if the applicant has made false and misleading statements or concealed relevant facts. The public housing agencies and owners of assisted projects would follow up and verify information affecting eligibility and benefits level based on data furnished by the Secretary. By allowing resolution of such matters at the local level, several goals are achieved. The Department will be providing a means for combating fraud, assisting in debt collection efforts, and allowing for greater local administration of the program.

Since the 221(d)(3) program also provides a financial benefit to tenants, it should be included, as provided by subsection (d), along with the other rental assistance programs in the prohibition against financial assistance to aliens. Also, the amendment is needed to prevent the anomalous situation where some of the tenants in a section 221(d)(3) project are subject to the section 214 prohibition (rent supplement tenants) while others are not.

AMENDMENT OF REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

Section 322 would amend the Real Estate Settlement Procedures Act by repealing sections 8, 9, 13, 14, and 16 and by making several other minor changes.

Subsection (a) would repeal sections 8, 9, 13, 14, 15 and 16. Repeal of section 8 (Prohibition against Kickbacks and Unearned Fees) is proposed for two reasons. First, the Department has found that the abuses associated with direct cash payments of kickbacks do not occur so frequently on a nationwide basis as to warrant a Federal criminal statute and penalty. Second, developments in the settlement service industries in recent years indicated that this provision may impede the evolution of new, innovative methods for the delivery of settlement services, such as the voluntary packaging of such services, which may ultimately lower consumer costs.

Section 9 (prohibiting seller-required use of a particular title company) is proposed for repeal because the Department has never been able to identify a significant abuse of the consumer in the area of seller-selection of the title insurer. While developers might pass on the cost of blanket mortgage title work directly to consumers by referring or requiring use of the title company doing the blanket mortgage search, such costs are invariably passed on to the consumers in any event. Moreover, difficult title problems, which the project insurer is willing to insure against because it has thoroughly examined the Record, might become an exception on another company's policies. This may frustrate settlement unnecessarily.

Sections 13, 14 and 15 relate to demonstrations and reports which have been completed, and are being repealed as obsolete. Finally, section 16 (relating to the Jurisdiction of Courts) is being repealed, because the repeal of sections 8 and 9 would make it meaningless.

Subsections (b) and (c) of the Act make conforming changes in the Act's purposes and definitions occasioned by the repeals in subsection (a).

Subsection (d) would amend section 4(b) of the Act to delete the requirement that the borrower be permitted to examine the settlement form the day before settlement. The Department's experience indicated few consumers took advantage of this disclosure opportunity and many received the information from closing agents voluntarily. Additionally, the Good Faith Estimates disclosures required by section 5(c) of RESPA have proven sufficiently accurate to give a general idea of the total cost of settlement. Therefore, elimination of this requirement would not have an injurious effect on consumers, but would remove the Federal government from one aspect of residential real estate transactions.

Subsection (e) amends section 5 of the Act relating to distribution of booklets to clarify the law and to reflect the existing practice of the Department of furnishing only the text for the booklet while the lenders themselves purchase the booklets from vendors.

Subsection (f) makes a technical change in section 10 of the Act (Escrow Accounts), relating to escrow collection. In a very few circumstances (primarily involving real estate taxes), the existing statutory formula for the prepayment of taxes and insurance has provided insufficient funds to meet the obligation when it first comes due after closing. The amendment would permit a sum to be collected sufficient to avoid a shortage from occurring.

Subsection (g) is a technical amendment to section 12 of the Act, deleting a reference to section 6, which has already been repealed.

HOUSING COUNSELING ASSISTANCE

Section 323 would amend section 106(a) of the Housing and Urban Development Act of 1968 to eliminate all funding for grants and contracts under the Housing Counseling Assistance Program and other activities specified in that section. In this regard, the Secretary's authority to make grants or contract for housing counseling and other activities as authorized by section 106(a) would be stricken. The authorization for appropriations under 106(a)(3) for housing counseling would be repealed.

Additionally, section 101(e) of the Act, which authorizes housing counseling assistance for mortgagors under section 235(i) or 235(j)(4) of the National Housing Act, would be repealed. Finally, section 230(d) of the National Housing Act, which directs the Secretary to provide housing counseling to persons assisted under the TMAP program, would be repealed.

Localities can use other sources of Federal revenues (such as community development block grants and general revenue sharing) to fund the activities specified in the above authorities. Accordingly, all authority to appropriate funds for grants and contracts for these purposes (including the Housing Counseling Assistance Program) would be eliminated. However, HUD's authority to provide information, advice and technical assistance for the purposes contained in these provisions would remain unchanged.

For example, HUD staff could continue to work with housing counseling agencies that provide mortgage default and rent delinquency counseling on a voluntary basis. The HUD staff activity would include approving counseling agencies and providing technical assistance, making referrals of delinquent mortgagors to counseling agencies, and using counseling agencies to help keep forbearance agreements current. The only expenditures to the Federal government under section 106(a) for the provision of these services would be the salaries and related expenses of the HUD employees involved.●

By Mr. ARMSTRONG (for himself, Mr. PROXMIRE, Mr. KASTEN, Mr. SCHMITT, and Mr. CHAFEE):

S. 2362. A bill to abolish the Synthetic Fuels Corporation; to the Committee on Energy and Natural Resources.

ABOLISHING THE SYNTHETIC FUELS CORPORATION

Mr. ARMSTRONG. Mr. President, today, my colleagues and I are introducing a bill to abolish the U.S. Synthetic Fuels Corporation.

Two years ago, Senator PROXMIRE and I led a broad-based coalition opposing creation of this $88 billion Federal program to stimulate a synthetic fuels industry in this country. I was involved in that effort not because I felt synthetic fuels were unimportant. On the contrary, I feel now, as I did then that a vigorous synthetic fuels industry is an essential ingredient in this Nation's recipe for energy independence. Nor did I oppose the creation of the Synthetic Fuels Corporation because I felt there was no proper role for the Federal Government. There are good reasons of public policy and national security that justify Federal involvement in such a critical and ambitious national effort. What I objected to was the magnitude of that Federal involvement, the enormity of the budgetary risk, and the unnecessary scale of environmental impact.

At the time, as my colleagues will remember, there were two synthetic fuel proposals before the Senate: The Synthetic Fuels Corporation program, which eventually prevailed, and the Defense Production Act program. The latter, I felt, was the better approach. It consisted of some $3 billion in Federal incentives and was designed to set up demonstration plants representing a wide range of innovative technologies; the syncrude products were to be reserved mainly for security-related uses.

In addition, the Defense Production Act program was strictly limited to loan guarantees and purchase commitments, while the Corporation is empowered to undertake these obligations in addition to price guarantees, direct loans, and even joint ventures. Ed Noble, the current Corporation Chairman, has said he intends to limit Federal involvement to loan, purchase, and price guarantees—and I think this is a very businesslike approach, as far as the type of support is concerned. As for the magnitude of that support, however, I felt the $3 billion program—coupled with the strong incentive of energy investment tax credits—was preferable to an $88 billion program and was as far as the Federal Government needed to go in setting up this important new industry. By a fairly narrow margin, my colleagues disagreed and both programs were ultimately enacted.

This bill invites the Senate to reconsider the debate we had 2 years ago and, in light of developments, correct an $88 billion mistake. By repealing the Synthetic Fuels Corporation portion of the Energy Security Act of 1980, we will leave intact a lean, practical, and effective synthetic fuel program that will provide adequate incentives without resorting to pointless, sugar-daddy subsidies.

The Energy Security Act authorizes a two-stage synfuels program: Phase 1 appropriations can be as high as $20 billion and the phase 2 ceiling is $68 billion. In 1980, Congress also created the energy security reserve—a special account at the Treasury—and appropriated more than $17.5 billion in phase 1 moneys dedicated to subsidies for commercialization of a synthetic fuel industry. Prior to February 9 of this year, when the Synthetic Fuels Corporation became fully operational, the Department of Energy awarded subsidies to three synthetic fuel projects: $2.02 billion in loan guarantees to the Great Plains coal gasification project; $1.1 billion in loan guarantees to the TOSCO oil shale project; and $400 million in purchase guarantees to the Union oil shale project.

After the Corporation became operational, it inherited supervision of the two oil shale commitments. Under this bill, all three commitments will be kept, though supervision of them will be the responsibility of the Department of Energy or a successor agency. The Corporation has selected five finalists for the next round of funding. The Corporation will not make any irrevocable commitments to any of these companies for several months yet, and I hope it would not do so until Congress has had a chance to reconsider the scope of its mission.

The financing of these programs is a kind of budgetary shell game, in which the taxpayers are kept guessing. The energy security reserve at the Treasury is an onbudget item, although it functions like a line of credit. Funds flow from it to the Corporation in a complicated series of bookkeeping adjustments, which would add directly to the deficit if the Federal Government would have to back up any of its guarantees. Termination of the Corporation will allow OMB to extinguish the energy security reserve, the total of which is now around $15 billion, and put an end to all this fiscal sleight of hand.

Moreover, termination would have a direct and immediate budgetary impact that would significantly reduce the Federal deficit. It would save $186 million in actual outlays for fiscal years 1983-87 as estimated by the Congressional Budget Office. In the long term, failure of a guaranteed synthetic fuel enterprise could have enormous onbudget implications, potentially adding billions to the Federal deficit at a time that is not so very distant. Similarly, price guarantees represent potentially huge budget exposure and could lead to cash outlays in the hundreds of millions of dollars during the late 1980's and in the 1990's, if syncrude is not cost competitive. Experts concede that projects begun now will not turn out products that are competitive with conventional fuels when they are completed 5 or even 10 years down the road.

Nor would syncrude be seen as a panacea which will end U.S. reliance on imported oil. The act set production goals of 500,000 barrels per day (bpd) by 1987 and 2 million bpd by 1992—while current imports are around 3 million bpd—and the Corporation has already indicated that these goals are unrealistic and will probably not be met. The declining international oil prices, inflation-caused cost overruns on synthetic fuel plants, the uncertainty of these new technologies and the potential environmental harm all combine to emphasize that a crash program is unwise and that a more careful, less expansive approach is needed.

First, I would like to discuss the macroeconomic considerations. Today's frail economy is already paying a heavy price for massive and unwise Federal borrowing. The Office of Management and Budget has conducted econometric studies that clearly demonstrate the direct link between Federal credit demands and interest rates. A mere 1-percent increase in Federal borrowing as a proportion of the GNP, or about $26 billion in new credit demand, would mean:

In the first year, inflation would rise 0.6 percent and the yield on 20-year Government bonds would rise by 0.5 percent.

In the second year, debt monetization would magnify the inflationary trend and result in a 1-percent increase in the inflation rate; the 20-year bond rate would be up 1 percent.

Ultimately, when the economy would have stabilized, the new credit injection would have boosted the inflation rate a full 2.25 percent; and increased the 20-year bond rate by 2 percent.

There is only so much loan capital available at any given time and, as ballooning Federal borrowing absorbs more and more of this finite amount, non-Federal borrowers have to bid up interest rates on the remaining credit. Consider the alarming growth of Federal credit demands in the last 17 years:

Federal borrowing as a percent of available capital

Fiscal years:	
1965-69	16
1970-74	21
1975-79	27
1980	36
1981	44
1982	47
1983	52
1984	54

Clearly the Federal Government, with the sharpest elbows of any borrower, is crowding the private sector out of the credit markets. Note that, from 1965 to 1969 when the Federal Government used only one-sixth of the available loan capital, the prime rate averaged only 6 percent. Now that the Federal Government soaks up nearly half of the loan capital in the country, the prime rate is 16.5 percent. OMB has calculated that, during 1983, the Federal Government will undertake $49 billion of new direct loan obligations and a staggering $98 billion of new loan guarantee commitments. By comparison, in 1981, the Federal Government made direct loans worth only

$26.1 billion and loan guarantees of only $28 billion.

Such borrowing, and the projected future borrowing, must be brought under control to curb high interest rates and other market disruptions. The Synthetic Fuels Corporation is a very good place to begin controlling Federal borrowing.

Federal financing puts Government sponsored projects at the head of the line for capital and, since the projects financed in this manner are mainly those that would not be financed in the unsubsidized market, the effect is literally to drain capital away from relatively more efficient and attractive projects to those that are, at least in the judgment of the private capital markets, less efficient and attractive. This disruption of the free flow of credit reduces the efficiency of America's capital stock. Such disruption and loss of efficiency may be justified on the scale of a few billion to help get the strategic synfuels industry off the ground, but this time of national economic crisis is certainly not the moment to risk an $88 billion disruption.

Now I would like to specifically discuss oil price and supply trends. In the early 1970's oil was selling for a couple of dollars a barrel, but it peaked at around $40 just a few years ago. The OPEC price-fixing cartel managed, for a few years, to hold prices at levels that were absurdly and artificially high. But now the law of supply and demand is working its magic on the international oil market. Demand for oil has proved to be surprisingly elastic. When oil prices doubled after the Iranian revolution in 1979, demand registered a precipitious decline—it was cut by a whopping 10 percent.

In this country, decontrol of oil prices and phased decontrol of some natural gas prices have inspired a massive national effort toward energy conservation. Our industrial sector now uses less energy to produce goods that are more energy efficient; the energy needed to produce a dollar's worth of gross national product has dropped a staggering 20 percent since 1973, and other Western countries have even more impressive records. U.S. conservation efforts have kept today's total energy consumption at the oil equivalent of 35 million barrels per day (bpd)—about half this amount is oil, the other half is other energy consumption—or 5 million bpd less than forecast prior to the 1973 embargo.

The effect has been dramatic. Gasoline dropped 10 cents a gallon last year and experts are saying that, by the end of this year, it will drop nationwide to match many areas in the country where it is already below $1. The price of home heating oil dropped around 8 cents this winter. Perhaps a more revealing indicator of petroleum price trends is the futures market, where traders are anticipating a further decline by the end of this month. William Brown, director of energy and technology studies at the Hudson Institute has predicted the price of oil will gradually settle to $15 per barrel. Merrill Lynch, Pierce, Fenner & Smith, Inc., recently released an analysis that indicated Wall Street is already valuing crude oil at $20 a barrel in assessing the worth of oil company shares.

In 1973, industry leader Exxon Corp. estimated that non-Communist oil demand would grow to 95 million bpd by 1985; at the end of last year, however, we had reached a mere 48 million bpd and now Exxon has predicted that figure will not even reach 60 million bpd until the turn of the century. U.S. crude imports have dropped by more than half in the last 3 years alone, and are currently around 3 million bpd.

But, while the oil-importing countries have been successfully curbing their energy appetites, oil exporters have grown desperately dependent on these massive infusions of foreign currencies. So much so, in fact, that any significant decrease in revenues can destabilize whole societies. The shoe is plainly on the other foot now; Libya was in the vanguard of the OPEC embargo, but now the international oil markets have improved to the point where President Reagan has decided to ban oil imports from that country. As demand is reduced, OPEC will either have to cut production or drop prices to keep pace with the market and bolster the OPEC economies that are constructed entirely on the shifting sands of oil revenues.

Although the world price of oil is supposedly tied to the Saudi Arabian standard of $34 per barrel, Iran and Venezuela are selling well below that level and the spot market is only around $28. When the conflict between Iraq and Iran is resolved, those countries will exacerbate OPEC's problems by almost doubling their total wartime production of 2.5 bpd. Meanwhile, non-OPEC oil exporters like Great Britain and Mexico are keeping intense downward pressure on prices, chasing petrodollars in a shrinking market. Britain, for example, has slashed its price by $5.50 in the last few months alone; this has created considerable disarray within OPEC, which is already pumping less oil than in any year since 1969. Moreover, only four OPEC members are producing enough oil to balance their current accounts: Saudi Arabia, Qatar, Indonesia, and the United Arab Emirates.

OPEC is in serious trouble. The facade of uniform pricing is cracking apart, although it remains to be seen whether the cartel can be patched back together. The SFC was created in 1979, largely as a response to that year's doubling of oil prices; ever increasing prices for imported crude were forecast, with the expectation that expensive synthetic fuel technologies would be competitive when they came on line. That supposition is very much in doubt.

Does all of this mean we should abandon our national synthetic fuel effort? Of course not. But a dispassionate review of recent economic trends emphasizes that prudence and commonsense call for us to scale down this massive program which was enacted at a time when a sky's the limit, do something even if it is wrong psychology gripped Congress.

Finally, and in some ways most importantly, there are solid environmental reasons to develop synthetic fuels at a measured pace rather than on a crash basis. I have long left that the only way we can move significantly toward energy independence, while protecting the environment of this country, is to develop our energy alternatives in a gradual and determined manner. A headlong rush toward development of our energy resources, could bulldoze aside essential environmental concerns. A crash program, especially on the scale envisioned by the Energy Security Act, is likely to have far more adverse environmental impacts than multiple, diverse, small-scale efforts undertaken within the financial discipline of private markets.

In Colorado, where synthetic fuel development has already begun to have a sharp impact, we are especially concerned about the environmental aspects of so large a program of subsidies to this emerging industry. What it will mean for our pristine western vistas, our scarce water supplies, our small communities, and our agricultural way of life are very troubling questions to which the answers are by no means clear. Because synthetic fuel industries are very young technologically, we know very little about the environmental impact they may actually have; our knowledge is limited to the fact that this impact would be very significant.

Hand in hand with environmental impacts are the socioeconomic impacts that come from sponsoring massive synthetic fuel projects in areas that have underdeveloped infrastructures. In the West, where many of these projects will be sited, it is no exaggeration to say that socioeconomic impacts could impair the quality of life enjoyed by hundreds of thousands of people.

No State is willing to become an energy colony for the rest of the country. Oil shale, Colorado's predominant synthetic fuel industry, is already moving ahead quickly—some say too quickly—and has State and local officials scrambling to keep one step ahead of the many problems caused by rapid growth.

The economic discipline of the private market, unless completely distorted by massive Federal involvement, can greatly assist efforts to keep synthetic fuel development from getting completely out of hand.

Two years ago, during the debate on the Energy Security Act, I pointed out that the fastest, cheapest, and most environmentally sound way to produce "more" oil is to step up conservation measures. This has been proven true by the tremendous strides we have made in this area during recent years. We can do more. With decontrol of energy prices, regulatory reform, energy investment tax credits, sensible Federal investment in the development of alternative energy and limited Federal involvement in a prudent synthetic fuel program, we can further improve this country's pattern of energy consumption.

Mr. President, at this point I would like to have printed in the RECORD certain statements in support of this legislation.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF NATIONAL ENVIRONMENTAL GROUPS

We are pleased to announce our support for the Armstrong/Proxmire Bill to terminate the Synthetic Fuels Corporation (SFC). Largely exempted from the normal budget process and lacking defined environmental responsibilities, the Corporation was a bad idea from the start. In fact, the SFC was originally packaged and sold on False Premises. The public was told that:

Synthetic Fuels from coal, tar sands and oil shale were a cost-effective, readily-available alternative to insecure supplies of oil.

Synthetic Fuels development would occur in an environmentally acceptable fashion.

Federal intervention would successfully spur the development of a commercial synthetic fuels industry.

This government subsidization would not cost the taxpayers money.

The lure of $17.7 billion in federal assistance has only encouraged the proliferation of immature and unsound projects. Enormous project cost overruns, costly purchase and price guarantee request which exceed the market price of oil, and the withdrawal of private sponsors from many projects only underscore the fact that synthetic fuel technologies are not such a sure-bet. They are high risk ventures which will inevitably cost the American taxpayers billions of dollars.

Moreover, little progress has been made in resolving serious environmental, health and safety problems associated with synthetic fuels development. A commercial scale synfuels plant will release more than a million tons of air, water and solid waste pollutants every year. While industry assures us that it will be able to meet the provisions of existing laws, many pollutants from synthetic fuels processes are not well regulated and very few standards currently exist for the industry.

Yet, the federal government is dismantling environmental research efforts in this area, and its program to assist states with the permitting of these facilities has languished. These actions only increase the difficulty of developing the industry in an environmentally acceptable fashion.

The existence of a Synthetic Fuels Corporation is not good energy, economic or environmental policy. Billions of dollars in SFC assistance may enrich synthetic fuels promoters, but the public has nothing to gain. Indeed, by obligating scarce federal dollars to subsidize the rapid commercialization of this industry, we are likely to wind up as double losers: paying for potential environmental disasters on the one hand and making multi-billion dollars bail-out payments for projects which private industry will not support with its own money.

This is clearly a program which the American people cannot afford.

Environmental Action,
Environmental Defense Fund,
Environmental Policy Center,
Friends of The Earth,
Izaak Walton League,
National Audubon Society,
Natural Resources Defense Council,
Sierra Club,
Solar Lobby,
The Wilderness Society,
Western Organization of Resource Councils.

STATEMENT BY JAMES D. "MIKE" MCKEVITT

The small and independent business owners represented by NFIB are in support of the Armstrong-Proxmire legislation to terminate the Synthetic Fuels Corporation. NFIB members voted 57 to 34 percent against such a corporation.

At a time when all of us should be seeking ways to reduce the federal deficit, there is no justification for a program which costs the taxpayers twelve billion dollars.

The small entrepreneurs of this country believe that when there is a market for synthetic fuels, sufficient private sector capital will be available for commercial production. In the meantime, we oppose the existence of a government-sponsored corporation, using taxpayer dollars to enter the energy business.

STATEMENT BY MERILYN REEVES

The League of Women Voters of the United States enthusiastically supports the Armstrong/Proxmire bill to terminate the Synthetic Fuels Corporation (SFC). In an era of extreme budget austerity, the use of federal funds to subsidize expensive, inefficient and potentially environmentally dangerous technologies is the height of folly. The SFC is an unnecessary and inappropriate drain on the federal budget, diverting funds from more worthy efforts such as conservation, food stamps, housing and Aid to Families with Dependent Children.

The League believes that conservation—using energy more efficiently—should be the central feature of U.S. energy strategy. Federal assistance to synthetic fuels, whether through the SFC or the Department of Energy budget, favors high cost, high risk projects—requiring long lead times—over proven conservation and solar programs that offer the greatest potential short-term energy supplies. The Synthetic Fuels Corporation leads the country in the wrong direction at the wrong time.

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA,
Washington, D.C., March 10, 1982.

Hon. WILLIAM L. ARMSTRONG,
Dirksen Senate Office Building,
Washington, D.C.

DEAR BILL: I have noted with interest the efforts of you, Congressman Hank Brown and others to abolish the federally funded Synthetic Fuels Corporation.

The Independent Petroleum Association of America, which represents more than 12,000 independent oil and gas producers in the United States, for many years has recognized the advisability of developing new sources of energy as alternatives to conventional fuels.

However, just as we advocate freedom from government controls of crude oil and natural gas pricing, we feel as strongly that governmental subsidy of any area of the energy producing industry is as unworkable and unwarranted as price controls.

We believe that the multiple benefits of the free market currently are being borne out by the success of President Reagan's crude oil decontrol order of last January. Development of the most cost efficient alternative fuels will only come about through sound business decisions based on inter-fuel competition in the free market. But if synfuels development was not viable as a competitive venture when crude oil prices averaged $35 per barrel a year ago, then certainly it is less viable now when the price is $30 a barrel and apparently still falling. Government subsidization in such an uncertain climate is just pouring tax dollars in a sinkhole.

You and Congressman Brown are to be commended for your recognition of these principles.

With all good wishes, I am

Sincerely,

LLOYD N. UNSELL.

NTU RESPONSE TO ARMSTRONG-PROXMIRE LEGISLATION TO REPEAL SYNFUELS CORPORATION

WASHINGTON, D.C.—The National Taxpayers Union announced today their support of the Armstrong-Proxmire Bill abolishing the U.S. Synthetic Fuels Corporation.

"We have consistently opposed the concept of a Synthetic Fuels Corporation. The National Taxpayers Union encourages development of alternative energy sources through the private sector without federal subsidies," said Jill Greenbaum, lobbyist for the National Taxpayers Union.

The Armstrong-Proxmire Bill would terminate the corporation and urge the U.S. Treasury to receive all of the corporation's unspent funds. The Congressional Budget Office estimates that over the next five years $186 million in administrative expenses would be saved.

The Synthetic Fuels Corporation was established by Congress in 1980 with the intent to relieve the dependence upon foreign oil stemming from the assumed energy crisis. The Corporation was authorized as part of the Energy Security Act. Congress appropriated $5 billion for the Department of Energy to initiate a synfuels program under the Defense Production Act and $6 billion for a quasi-governmental Synthetic Fuels Corporation. The Corporation will have $12.2 billion of its own and about $1 billion more carried forward from the interim DOE synfuels program by this June.

"We believe the total cost to the taxpayer should be reflected as part of the growing deficit rather than continue to be considered 'off the budget,'" stated Ms. Greenbaum.

The declining trend in electrical energy consumption reported by the House Science and Technology Committee in November, reflects the growing awareness by the consumer to save, not waste energy. All indications are that this is not a temporary trend, and coupled with prudent private sector development of alternative energy sources, there is no need to continue funneling huge sums of taxpayer dollars through the ill-born Synfuels Corporation.

Faced with huge deficits and persistently high interests rates, it is more important than ever to encourage private initiatives in developing synthetic fuels.

We hope that all members of the Congress will support Senators Armstrong and Proxmire and vote for the taxpayer by disestablishing the Synfuels Corporation.

The National Taxpayers Union, a non-profit, non-partisan organization is the oldest and largest organization lobbying on behalf of the American taxpayer.

Mr. PROXMIRE. Mr. President, today I am pleased to offer with Senator ARMSTRONG and several distinguished colleagues a bill to end the Synthetic Fuels Corporation. It is time to end our experiment with inflated synthetic fuels projects which disrupt our credit markets but do not deliver on their promise of achieving energy independence.

The Synthetic Fuels Corporation is an idea whose time has passed.

In the fall of 1979, the Banking Committee unanimously rejected the creation of a Synthetic Fuels Corporation. Instead, our approach to synthetic fuels development was modest and gradual.

Unfortunately, our bill lost out to a more grandiose scheme proposed by the Carter administration and the Senate Energy Committee.

We stated in our report on S. 932, the Energy Security Act, that—

> Creating a Federal corporation for the sole purpose of managing a synthetic fuels program is inconsistent with the committee's intent to minimize Federal interference with and involvement in synthetic fuels development efforts.

The Banking Committee's approach to synthetic fuels also favored assistance only to the smallest projects necessary to demonstrate individual technologies. This minimized the risks to American taxpayers of potential project failures.

We recognized that most synthetic fuels technologies were "in a relatively primitive and untested state of development" and even the infusion of large amounts of Federal dollars would not make them competitive with conventional fuels.

All these go-slow signals were ignored by the legislation which set up the Synthetic Fuels Corporation. The first projects to be funded through the energy security reserve, as well as the finalists for first round funding are large, expensive, and underfinanced.

But unlike 1979, when synthetic fuels plants were only at the dream stage, we have had enough experience with synthetic fuels plants to know where they can go wrong. And we have had enough experience to know it is time to withdraw our support for the Corporation.

Times have changed since the Synthetic Fuels Corporation was first proposed. Oil imports have dropped substantially and even the price of oil is starting to decline. Conventional fuel exploration has increased while conservation has taken hold.

None of these trends was very evident in 1979. Instead, the Energy Security Act which gave us the Synthetic Fuels Corporation was passed against a background of hysteria brought about by the Iranian hostage crisis.

Oil consumption patterns and increased exploration are not the only differences since 1979. Our economic condition has worsened and many other energy projects have been cut.

While only a small amount of Synthetic Fuels Corporation expenditures appear on budget, even cutting these expenses can make a considerable difference. We can cut $186 million in outlays by eliminating only the first 5 years of administrative costs associated with running the Corporation.

Far more dramatic are the effects on off-budget expenditures; the Snythetic Fuels Corporation is entitled to draw on $17.7 billion in the energy security reserve to fund price guarantees, loan guarantees and purchase commitments for synthetic fuels. In addition, the Corporation also has the authority to make some direct loans and cooperative agreements although such projects have a lower priority.

DOE has already committed over $3 billion in loan guarantees to two projects, Tosco and the Great Plains coal gasification plant and made $400 million in price guarantees to another project.

These loan guarantees were made through the Federal Financing Bank and are really no different than direct outlays because all of the Bank's funds come from the Treasury.

Although these expenditures do not appear in the budget, they increase the deficit nonetheless.

Funding of snythetic fuels projects also drives up interest rates by competing with private borrowing for scarce resources and diverts capital from other, more productive areas which receive no subsidies.

Creating the Corporation was unwise in 1979. It is an even worse idea today.

By Mr. DURENBERGER (by request):

S. 2363. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Governmental Affairs.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

● Mr. DURENBERGER. Mr. President, it gives me great pleasure to introduce, by request of the Director of the Office of Management and Budget, a long-overdue bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

These amendments are the result of 9 months of close collaboration between the Subcommittee on Intergovernmental Relations and OMB's Intergovernmental Affairs Division. They represent the first effort under President Reagan's administration to implement a comprehensive reform of a complex, crosscutting Federal mandate, and I am especially pleased to be a part of this process. Accordingly, even though there are several points in this bill over which the administration and I disagree—so strongly, in fact, that I plan to introduce amendments in committee to resolve these issues—I greatly commend the overall thrust of this legislation to introduce a more rational concept of federalism into the implementation of an important Federal policy.

PURPOSE

The Uniform Act, which this legislation would amend, is based on the constitutional principle that persons who have their property taken by Government under the power of eminent domain are entitled to "just compensation." It establishes a uniform policy for all Federal agencies, specifying basic acquisition procedures and minimum levels of compensation, whenever a person is displaced by a Federal, or federally assisted, program. Particularly, the act updates just compensation to include moving and other expenses associated with moving to a replacement dwelling. In so doing, it broadens the protection afforded individuals from having to bear a disproportionate share of the cost of Federal programs designed to benefit the public as a whole.

However, while the constitutional roots of these protections accord a strong Federal purpose to the Uniform Act, it has, in its implementation, reflected much that is wrong with our Federal system. Because well over 90 percent of all federally funded programs which result in displacement are grants-in-aid, it largely falls upon State and local agencies to administer the act's provisions. Yet the act allows each of the 16 Federal departments and agencies whose programs are subject to the act to promulgate different regulatory requirements. It provides little or no flexibility to allow a matching of the individual's needs with the resources and goals of communities. It regularly results in unintended windfalls to some, while excluding others entirely. So even while the act symbolizes the Federal responsibility to insure that Government policies are carried out fairly and equitably, it has also come to be synonymous with popular characterizations of unresponsive and inefficient, Big Government.

EFFECT OF AMENDMENTS

The Uniform Relocation Act Amendments of 1982 comprehensively address each of these problems, for the most part, in a constructive manner. Key goals of the legislation include reducing Federal intrusions and burdens on State and local government; broadening the act's coverage to include other legitimate classes of displaced persons; raising moving ceilings to compensate for inflation; and eliminating windfalls, program duplication, and abuses in the implementation process. However, the administration would accomplish these reforms while so drastically narrowing the act's applicability as a condition of Federal financial assistance that, according to the Advisory Commission on Intergovernmental Relations, only a handful of GSA, Interior and Defense programs would remain covered. I greatly oppose this narrowing, and plan to do all that I can to insure that such an approach does not succeed.

Chief among the administration's initiatives to narrow the act is a provision that would limit coverage to persons displaced by programs where the Federal Government has direct responsibility with respect to specific site of project approval decisions. This definition is thought by some in the Federal Highway Administration to exclude not only all block grants, but most of the Federal highway program as well. Thus, if enacted in its present form, the administration's bill could exclude over 90 percent of those persons currently covered under Uniform Act protections.

In addition, the administration intends to exclude from Uniform Act protections all persons displaced by Federal code enforcement programs. This exclusion appears to be based on a distinction between displacement that is the result of condemnation for a public purpose under code enforcement, as opposed to under right-of-way powers. If this is the case, I do not agree. Where two different program activities produce the same result—displacement—it is only fair that there be similar protections afforded the individuals affected.

The philosophy of New Federalism underlying the administration's approach to these amendments is both understandable and arguable. Essentially, it reflects the belief that the Federal Government should play a limited role in encumbering the decisions of State and local governments. Although I support this general proposition, I would not advocate its extension to our basic constitutional protections, such as the principle of "just compensation." Nor would I apply it to those Federal statutes designed to update and expand upon such principles.

More positively, I would assert that even in the absence of those narrowing aspects which I oppose, the New Federalism agenda would be largely implemented by these amendments. For example, State and local decision-making will be significantly enhanced. Federal intrusions and administrative burdens will be minimized. Even the costs associated with any expanded coverage sought by these amendments will be balanced by the savings created in the area of reduced windfalls and redefined entitlements. In short, the sound management principles incorporated in this legislation are fundamentally consistent with President Reagan's mandate to improve the responsiveness and efficiency of the Federal Government.

Mr. President, we have before us a golden opportunity to significantly improve upon an important Federal law that restrains the actions not of individuals, or the private sector, but Government. Americans have the right to feel confident in the good intentions of their Government. I can only hope that in debating the Federal purpose in securing this right, we do not lose sight of the fact that the matter has already been settled. The Constitution requires that people receive "just compensation."

Mr. President, I request that a copy of the amendments, a section-by-section analysis, and a letter transmitting this bill to the Congress be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982."

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. (a) Section 101(1) (42 U.S.C. 4601(1)) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act is amended by deletion of the following two phrases: "(except the National Capital Housing authority)" and "(except the District of Columbia Redevelopment Land Agency)".

SEC. 101. (b) Section 101(3) of such Act (42 U.S.C. 4601 (3)) is amended to read as follows—

"(3) The term 'State agency' means any entity which has eminent domain authority under State law, except public utilities, and except where State statute specifically provides that a private entity shall not be subject to the provisions of this Act".

(c) Section 101(4) of such Act (42 U.S.C. 4601(4)) is amended—

(1) by inserting after the phrase "United States" the following: "except where the Federal government has no direct responsibility with respect to specific site or project approval decisions and,"; and

(2) by inserting a comma after "insurance" and inserting "or mortgage interest subsidy to a person"; and

(d) Section 101 (6) of such Act (42 U.S.C. 4601(6)) is amended to read as follows:

"(6) The term 'displaced person' means—

"(A) any person who moves from real property, moves personal property from real property, or moves a business or farm operation, as a direct result of a written notice of intent to acquire by any displacing agency such real property for a program or project undertaken by a Federal agency, or with Federal financial assistance; or

"(B) solely for the purpose of subsections (a) and (b) of Section 202, and Section 205, any person who moves from real property or moves personal property from real property—

"(i) as a direct result of the written order of any displacing agency to vacate other real property, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency, or with Federal financial assistance;

"(ii) as a direct result of substantial rehabilitation or demolition for a program or project undertaken by a Federal agency, or with Federal financial assistance."

(e) Section 101 of such Act (42 U.S.C. 4601) is amended by adding at the end thereof the following new subsections:

"(10) The term 'suitable replacement dwelling' means any dwelling that is decent, safe, and sanitary; adequate in size to accommodate the occupants; affordable; in an area not subject to unreasonable adverse environmental conditions; similar in type of improvement to the displacement dwelling; in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services or the displaced person's place of employment; and is available on the private market, unless the person is receiving public assistance for housing.

"(11) The term 'displacing agency' means any Federal agency, State, State agency, or person furnished Federal financial assistance which causes a person to be a displaced person.

"(12) The term 'lead agency' means the cabinet-level department, agency, or other entity designated by the President to coordinate implementation of the Uniform Act under Section 213 of this Act.

TITLE II—UNIFORM RELOCATION ASSISTANCE

DECLARATION OF FINDINGS AND POLICY

SEC. 201. Section 201 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4621) is amended to read as follows:

"DECLARATION OF FINDINGS AND POLICY

"SEC. 201. (a) The Congress finds and declares that—

"(1) displacement as a direct result of programs or projects undertaken by a Federal agency, or with Federal financial assistance, is caused by a number of activities, including rehabilitation, demolition, and acquisition;

"(2) displacement occurs in a variety of social, economic, geographic, and legal circumstances; relocation assistance policies must provide for sufficient flexibility to assure fair, uniform and equitable treatment of all affected persons; and

"(3) the displacement of businesses often results in their closure; minimizing the adverse impact of displacement of businesses is essential to maintaining the economic and social well-being of communities.

"(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency, or with Federal financial assistance, in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. It is the intent of Congress that—

"(1) the primary purpose of this title is to minimize the hardship of displacement on persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance;

"(2) Federal agencies shall carry out this law in a manner which minimizes waste, fraud, and mismanagement;

"(3) the administration of this Act shall, to the maximum extent feasible, minimize unnecessary administrative and program costs borne by States and State agencies through the promulgation of economical regulatory requirements, and the delegation of substantial administrative discretion to the States;

"(4) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act;

"(5) for the purpose of determining the unique circumstances of a displaced person, the goals of the displacing agency, the unique resources at its disposal for administering relocation assistance, the overall housing and other needs of the community, and the preferences and needs of the displaced person shall be taken into account as appropriate; and

"(6) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals."

MOVING AND RELATED EXPENSES

SEC. 202. (a) Section 202(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622(a)) is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—";

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(4) actual reasonable expenses necessary to reestablish a displaced business at its new site, but not to exceed $10,000".

(b) Section 202(b) of such Act (42 U.S.C. 4622(b)) is amended by striking out all that follows "may receive" and inserting in lieu thereof "an expense and dislocation allowance, which shall be determined according to a schedule established by the Head of the lead agency."

(c) Section 202(c) of such Act (42 U.S.C. 4622(c)) is amended to read as follows:

"(C) Any displaced person eligible for payments under subsection (a) who is displaced from the person's place of business or farm operation, and who is eligible under criteria established by the Head of the lead agency, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a). Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the Head of the lead agency, except that such payment shall not be less than $1,000 nor more than $20,000. A business shall qualify as a business under Section 101(7) of this Act on grounds other than its rental to another person of any part of the real property."

REPLACEMENT HOUSING FOR HOMEOWNER

SEC. 203. Section 203(a) of the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)) is amended—

(1) by striking out "comparable" and all that follows through "market" in paragraph (1)(A) and inserting in lieu thereof "suitable replacement dwelling";

(2) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) The amount, if any, which, if applied to reduce the mortgage balance on the replacement dwelling, would reduce the principal and interest combined on the replacement dwelling to the same level as the payment on the displacement dwelling, assuming the same term and outstanding principal balance. Notwithstanding, if the term of the mortgage on the replacement dwelling were shorter than the term of the mortgage on the displacement dwelling, the shorter term would be used in the payment computation, and if the principal amount of the mortgage on the replacement dwelling is lower than the balance of the mortgage on the displacement dwelling, the computation shall similarly reflect the lower of the two amounts. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. If, for any reason, such payment cannot be computed according to the method prescribed in this Section, the head of the lead agency shall authorize the use of another method of computation."; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under Section 205(c)(3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this Section shall be based on the costs of relocating the person to a suitable replacement dwelling within one year of such date. With the consent of the displaced person, the head of the displacing agency may waive the requirement that a suitable replacement dwelling be decent, safe, and sanitary for good cause, due to the unique circumstances of the displaced person.".

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

SEC. 204. Section 204 for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended to read as follows:

"REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

"SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of the displacing agency shall make a payment to or for any displaced person displaced from any dwelling unit not eligible to receive a payment under Section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling, or, where displacement is not caused by acquisition, any other event which the head of the lead agency may prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed two years, a suitable replacement dwelling. For the purpose of this subsection the amount referred to shall equal the lesser of (A) $3,000 or (B) 24 times the amount obtained by subtracting from the monthly housing costs for a replacement dwelling 30 per centum of the displaced person's gross monthly income. For the purpose of the preceding sentence, the term 'gross monthly income' means the total monthly income of all adult members of the household, including, though not limited to, supplemental income payments from public agencies.

"(b) Any displaced person eligible for payments under subsection (a) may elect to receive in lieu thereof either Federal low income housing assistance or similar State or local governmental assistance if such assistance is available at the time of displacement and such person is otherwise eligible for such assistance. The failure of any such person to make such an election shall be taken into account when evaluating the eligibility of such person for any Federal or federally assisted low income housing assistance program during the two years following the date on which such person received the payment authorized under subsection (a) of this section.

"(c) Any person eligibile for a payment under subsection (a) may elect to apply such payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a suitable replacement dwelling if such person does not receive other governmental financial assistance toward such purchase. Notwithstanding, a displaced homeowner who has occupied the displacement dwelling for at least 90 days but not more than 180 days prior to the initiation of negotiations for the acquisition of such dwelling shall, at the discretion of the head of the displacing agency, be eligible for the maximum payment allowed under this subsection, provided that such payment shall not exceed the payment such person would otherwise have received under section 203(a) of this Act had the person occupied the displacement dwelling for 180 days prior to the initiation of such negotiations.

"(d) With the consent of the displaced person, the head of the displacing agency may waive the requirement that a suitable replacement dwelling be decent, safe, and sanitary for good cause. No payment shall be made under this section to any person (i) who is determined by the head of the displacing agency, according to criteria established by the head of the lead agency, to have occupied the displacement dwelling principally for the purpose of obtaining assistance under this Title, or (ii) who has been a displaced person for the purposes of this section during the two years preceding displacement, except that the head of the displacing agency may waive this requirement for good cause."

RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

SEC. 205. Section 205 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4625) is amended to read as follows:

"RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

"SEC. 205. (a) The head of any displacing agency shall assure that the relocation assistance advisory services described in subsection (c) are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

"(b) The Secretary of Housing and Urban Development shall assign a high priority for assistance under the programs referred to in Sections 204(b) and 206(b) of this Act to persons eligible under such Section. To the extent practicable, the Secretary shall also require that federally assisted State and local governmental low income housing assistance programs assign priority for assistance to such persons. To the extent practicable, the Administrator of the Small Business Administration and the heads of other Federal agencies administering programs which may be of assistance to displaced persons shall make available technical assistance under subsection (c)(5) and expedite the applications for such assistance by such persons.

"(c) Each relocation assistance advisory program required by subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order to—

"(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

"(2) provide current and continuing information about sales prices and rental charges on suitable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

"(3) assure that no person will be required to move from the person's dwelling unless the person has been given a reasonable choice of opportunities to move to a suitable replacement dwelling;

"(4) assist a person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location;

"(5) supply information concerning other Federal programs which may be of assistance to displaced persons, and technical assistance to such persons in applying for assistance under such programs; and

"(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

"(d) The head of any displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

"(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency or displacing agencies other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may by agreement designate one such agency as the cognizant Federal agency whose procedures shall be utilized to implement the activities. If such agreement cannot be reached, then the head of the lead agency shall designate one such agency as the cognizant agency. Such related activities constitute a single program or project for purposes of this Act."

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

SEC. 206. Section 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4626) is amended to read as follows:

"HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

"SEC. 206. (a) If a program or project undertaken by a Federal agency, or with Federal financial assistance, cannot proceed on a timely basis because suitable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The States may enact statewide standards for the implementation of this section, provided that such standards assure that persons in essentially similar circumstances receive equal treatment under this Act. The head of the lead agency shall certify that such statewide standard is in accord with the policy of this Act. In the event that a State does not enact such standards, the head of the lead agency shall require that this Section may be used to exceed the payment ceilings established in Sections 203 and 204 only on a case-by-case basis, for good cause.

"(b) Whenever housing replacement as a last resort will result in the provision of housing for persons who are otherwise eligible for low income housing assistance, the requirement that the displacing agency provide suitable replacement housing may be met through the provision of low income housing assistance by a program or project undertaken by a Federal agency, or with Federal financial assistance.".

FEDERAL SHARE OF COSTS

SEC. 207. (a) Section 211(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4631(a)) is amended to read as follows:

"(a) The cost to a displacing agency of providing payments and assistance pursuant to Titles II and III shall be included as part of the cost of a program or project undertaken by a Federal agency, or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program costs."

(b) Section 211(b) of such Act (42 U.S.C. 4631 (b)) is amended by striking out the second comma and all that follows "required by" through "available", and inserting in lieu thereof "State law which is determined by the head of the lead agency to have substantially the same purpose and effect of such payment under this section."

ADMINISTRATION

SEC. 208. Section 212 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4632) is amended to read as follows:

"ADMINISTRATION

"SEC. 212. (a) A displacing agency shall prevent unnecessary expenses, duplications of functions, and government competition under this Act and promote the efficient and effective delivery of relocation assistance services by carrying out such functions through any governmental instrumentality having an established organization for delivering such services, or any individual, firm, corporation, or association.

"(b) The use of private sector delivery systems shall, whenever feasible, incorporate competition among alternative service providers in order to minimize costs.".

REGULATION

SEC. 209. (a) Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended to read as follows:

"REGULATION AND ADJUDICATION

"SEC. 213. (a) The President shall designate a lead agency.

"(b) The head of the lead agency shall—

"(1) develop, publish, and promulgate, with the active participation of other departments and agencies responsible for funding relocation and acquisition actions, and in full coordination with State and local governments, such rules as may be necessary to carry out this Act;

"(2) assure that relocation assistance activities under this Act are coordinated with low income housing assistance programs or projects by a Federal agency, or a State or State agency with Federal financial assistance;

"(3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act, and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act.

"(4) perform other duties as may be provided by law as relate to the purposes of this Act."

ELIGIBILITY

SEC. 210. Section 216 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4636) is amended by inserting the following before the period at the end thereof: ", except as otherwise provided in this title".

TRANSFER OF SURPLUS PROPERTY

SEC. 211. Section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 46, 38) is amended by striking out "all amounts received" and inserting in lieu thereof "all net amounts received."

REPEALS

SEC. 212. Sections 214, 215, 217, and 219 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4634, 4635, 4637, and 4639) are hereby repealed.

TITLE III—UNIFORM REAL PROPERTY ACQUISITION POLICY

UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

SEC. 301. (a) Section 301(2) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651(2)) is amended by inserting the following before the period at the end thereof: "except the head of the displacing agency may forego an appraisal where the acquisition of such property is a donation, or is a voluntary sale with a selling price of not more than $700, and the seller, after being fully informed of the acquiring agency's obligation to conduct such appraisal, relieves the agency of such obligation. At the election of the owner or the owner's designated representative, the owner shall be provided with a written justification for the amount determined to be just compensation".

(b) Section 301(9) of such Act (42 U.S.C. 4651(9)) is amended to read as follows:

"(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the acquiring agency shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the acquiring agency has determined has little or no value or utility to the owner."

(c) Section 301 of such Act (42 U.S.C. 4651) is amended by adding at the end thereof the following sections—

"(10) Nothing in this Title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this Title, after the person has been fully informed of his right to receive just compensation of such property, from making a gift or donation of such property, or any part thereof, or any interest in, or of any compensation paid therefor, to a displacing agency, as said person shall determine.".

"(11) In all instances where a Federal agency directly acquires land within the boundaries of a State, no law, rule, or regulation of that State shall be preempted by any Federal law, except as required for the national security of the United States, or unless specifically provided for by the Congress of the United States.

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions of this Act and the amendments made by this Act shall take effect twelve months from the date of enactment of this Act, except that Sections 213, of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and section 401 of this Act shall take effect on the date of enactment of this Act.

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1982

SECTION-BY-SECTION ANALYSIS

Definitions

Section 101(a)

Section 101(1): This section eliminates reference in the Act to the National Capital Housing Authority and the District of Columbia Redevelopment Land Agency. If the proposed amendments are enacted these entities are included in the new definition of 'State agency', as having power of eminent domain.

Section 101(b)

Section 101(3): This section expands the definition of a "State agency" to include a private corporation that has the power to take private property for public use (eminent domain), except that public utilities are exempted, as are any entities specifically exempted from Uniform Act responsibilities under State law. Such an exemption would, presumably, have to be debated in the State Legislature. Persons displaced by such private entities for a Federal or federally assisted project currently do not qualify for assistance under the Act. Public utilities are exempted from the Act because they cause very little displacement, and would strenuously object to being covered by the Act.

Section 101(c)

Section 101(4): This section limits the applicability of this Act by defining "Federal financial assistance" to Federal programs in which the Federal government makes specific site or project decisions. The intent is to not encumber State/local government administration of "block grants", while maintaining the applicability of this Act to displacement caused or approved by the Federal government.

Section 101(d)

Section 101(6): The definition of "displaced person" for the purposes of triggering certain benefits—moving costs (section 202 (a) and (b)) and advisory services (section 205)—is expanded to include persons directly displaced through Federal or federally assisted rehabilitation or demolition activities. Persons displaced by non-acquisition activities are not presently covered under the Act, but are covered by separate relocation regulations. The expanded definition of "displaced person" consolidates under the Uniform Act 13 different HUD regulations requiring relocation assistance for persons directly displaced by Federal or federally assisted non-acquisition activities. It also ensures that persons displaced by such programs do not have uneven rights and entitlements solely due to the type of displacing activity.

Section 101(e)

Section 101 is expanded by adding three new definitions:

Section 101 (10) "Suitable Replacement Dwelling": This term is established to be used in place of "Comparable Replacement Dwelling " wherever it occurs in the Act. Comparability has resulted in substantial red tape, expense, and windfalls in the implementation process. If comparable replacement housing is available it is intended that the displaced person still have the option of relocating to such housing; however, where comparable housing is not available, suitable housing may be used to satisfy the displacing agency's responsibility for providing replacement housing.

Section 101 (11) "Displacing Agency": This term is established to consolidate under a single term all the sources of displacement, including Federal agencies, State agenices, States, and persons furnished Federal financial assistance, solely for the purpose of making the law easier to read and understand.

Section 101 (12) "Lead Agency": This term defines the department, agency, or other body that shall be designated by the President pursuant to section 213 to implement uniform regulations.

Policy

Section 201

Section 201: This section, which presently stipulates only that the Act is to provide for the fair and equitable treatment of persons displaced by Federal or federally assisted programs designed for the benefit of the public, is significantly expanded under a new Statement of Findings and Policy.

(a) Section 201(a): The Findings subsection establishes that federally caused displacement occurs under rehabilitation and demolition activities, as well as acquisition activities; that flexibility in the Act to meet the unique circumstances of displaced persons is fair and equitable; and that minimizing the adverse impact displacements have on businesses is vital to the economic well-being of communities.

(b) Section 201(b): The Policy subsection states that the administration of the Act shall minimize unnecessary administrative and program costs borne by State and local governments through economical regulations and the delegation of substantial discretion under the Act to the States; that Federal agencies shall implement steps to minimize waste, fraud, and mismanagement; that uniformity should be subordinate to the need for flexibility in administering the Act; that persons in essentially similar circumstances are to be accorded equal treatment; and draws a distinction between the Act's goals of minimizing the hardship of displacement on individuals and improving the housing conditions of the poor, indicating that the latter be integrated with existing housing programs as much as possible. A major purpose of these revisions is to ensure that uniformity exists among Federal regulations, but not necessarily at the local level where unique circumstances should be taken into consideration. However, where the circumstances of two or more persons are in most respects essentially similar—a relatively narrow concept—then the accordance of uniform rights and entitlements under the Act is intended.

Moving and Related Expenses

Section 202

Section 202(a): This section is rewritten to make it easier to understand. Also, a subsection is added (Section 202(a)(4)) to the effect that reasonable expenses, of up to $10,000, necessary to reestablish a business at its new site are compensable under the Act. The additional amount, though not large, should help small businesses adjust to displacement. This is to correct the problem in the present law that businesses receive substantially fewer rights and entitlements under the Act than do individuals. Under current practice some of the cost of public policy is externalized to the business sector, notwithstanding the fact that individuals own business and may suffer severe economic harm as a result of displacement.

Section 202(b): This section is amended to eliminate the ceiling and floor on the amount paid in lieu of itemized expenses for moving and other expenses associated with relocating, and to delegate the setting of such payments to the head of the lead agency. Removing the ceiling allows the payment to be adjusted upward for inflation. This corrects the incentive for persons to itemize actual expenses and thereby increase the attendant paperwork burden, when the in-lieu payment is so low as to be uneconomical. Removal of the floor will help to avoid windfalls presently resulting when persons are displaced from missions or "flop houses".

Section 202(c): This section is amended to raise the current $10,000 ceiling on the amount a displaced business or farm operation may receive in lieu of itemized expenses for moving and other expenses associated with relocating to $20,000; to delete the requirement that this amount be determined based on the annual income of such concern in favor of criteria to be developed by the head of the lead agency; and to require that persons whose sole business was the renting of the displacement property to others shall not qualify for this payment. The increased ceiling is to adjust the ceiling for inflation, since it is currently so low as to make it economic for businesses to itemize actual expenses, and increase the paperwork burdens of implementing agencies accordingly. The new payment criterion is established to provide displacing agencies with greater flexibility. The current criterion has proven very difficult to administer, and has resulted in its abuse purely as a method to speed up projects. Finally, the restricted definition of a business is to prevent windfalls and abuses presently benefiting owners of rental property who have little or nothing to move.

Replacement housing for homeowner

Section 203

Section 203(a): This section is amended to eliminate the requirement that persons be relocated to comparable replacement dwellings in favor of a requirement to relocate such persons to suitable replacement dwellings (section 203(a)(1)(A)); to change the method by which people are compensated for higher mortgage payments for their replacement dwelling to reflect current market conditions through the use of the "buydown" method (Section 203(a)(1)(B)); to allow the head of the displacing agency to extend, for good cause, the new year period in which a person must relocate to a replacement dwelling in order to receive a payment under this section, except that payments are to be computed based on the one year rule; and to allow him to waive the requirement that persons relocate to decent, safe, and sanitary (DSS) housing for good cause due to the unique circumstances of the displaced person. The corrected computation formula is to eliminate a number of unintended windfalls occurring under the present law. The one year rule is to clarify a displacing agency's obligation under the Act where displacement is substantially later than the final payment date—a continuing source of controversy. This is because when agencies lease back property to the displacee for a period of years, inflated land and relocation costs may be significantly higher at the actual time of relocation. However, an agency waiver of the one year rule is included as a fairness provision The DSS waiver gives persons and State and local agencies greater flexibility.

Replacement housing for tenants and certain others

Section 204

Section 204(a): This section is amended to replace the requirement that relocation be to a comparable replacement dwelling with the requirement that relocation be to a suitable replacement dwelling; and to eliminate the $4,000 ceiling in favor of a formula that pays the lesser of (A) $3,000 or (B) 24 times the amount obtained from subtracting 30% of the displacee's monthly income from the monthly housing cost at the replacement dwelling. The suitability standard is substituted to eliminate windfalls under the comparability standard. The revised payment formula is to reflect the intent that rental subsidies should be based on the person's ability to pay. This makes the effect of this section mildly redistributive, since its application would mainly be to subsidize those not well off.

Section 204(b): This section is amended to allow persons eligible to receive a payment under this section, who are otherwise eligible for low income housing assistance programs that are either federally administered or assisted, to elect instead to receive such housing assistance provided that it is available; but where such person opts for the cash payment, this is to be taken into account by Federal or federally assisted agencies when determining such person's eligibility for public housing assistance during the four years following the date on which such person received the cash payment. This is to allow agencies to use public housing to satisfy their requirements under the Act, and to eliminate windfalls that benefit persons who receive double housing subsidies.

Section 204(c): This section is amended to eliminate the requirement that persons who elect to apply the ceiling amount allowed under this section toward a downpayment on, and expenses pursuant to, the purchase of a replacement dwelling match any amount over $2,000; to provide that payments under this subsection not be more than they would be under subsection (a); to provide that such person is not to receive other governmental assistance toward such purchase other than federally insured or guaranteed loans or any amount in excess of what he would have received under 204(a); and to provide that homeowners who do not meet the 180 day residency requirements, but meet the 90 day residency requirements for tenants, remain eligible for the full $4,000 payment under this section, as is currently the case. The elimination of the matching requirement is to eliminate the burdensome paperwork that occurs under the current procedure. The limit of payments to the amount the person would otherwise have been eligible for under subsection (a) is to eliminate the use of higher payments as an inducement to homeownership. The "other assistance" clause is to eliminate overly generous or double subsidies. The homeowner clause is a technical adjustment to accommodate the limitation in benefits for tenants under this subsection to those under subsection (a).

Section 204(d): This section is amended to allow the head of the displacing agency to waive the requirement that persons relocate to decent, safe, and sanitary housing for good cause due to the unique circumstances of the displacee. This is to eliminate rigidities under the current law. It is also amended to make persons ineligible for payments under this section (i) if they are found to occupy the dwelling principally for the purpose of receiving assistance, or (ii) if they have been paid under this section in the past two years, except as waived by the head of the displacing agency. This is aimed at eliminating unintended windfalls to persons who camp "one step ahead of the bulldozer".

Relocation assistance coordination and advisory services

Section 205

Section 205(a): This section is amended to require the Secretary of Housing and Urban Development to assign a high priority for assistance to persons who choose under section 204(b) to receive public housing assistance instead of a cash payment; and to assure that other Federal agencies, such as the Small Business Administration, whose programs are of assistance to displaced persons to take practicable measures to provide technical assistance in preparing applications for such programs, and to expedite the consideration of such applications. This is to ensure better coordination of governmental programs, and to better target such resources toward minimizing the hardships that result from Federal programs.

Section 205(b): This section is amended to eliminate the requirement to provide information on the availability of comparable replacement dwellings in favor of suitable replacement dwellings; to include farm operations among the businesses for which information on alternative locations must be provided; and to eliminate the requirement that a person not be made to move unless given a reasonable choice to move to a comparable dwelling in favor of a suitable replacement dwelling. The substitution of suitability for comparability is based on the same rationale as established in Section 101 (10). The inclusion of farm operations under this provision is for equity purposes.

Section 205(e): This section is added to require that when two or more Federal agencies are providing assistance to a geographically or functionally related activity, the agencies will agree on a cognizant agency whose procedures which will apply to such activities. This is to eliminate red tape and paperwork burdens where regulations may be the same, but procedures differ. It will also serve to equalize payments. However, the intent is also that such cognizant agencies be established on a project-by-project basis, not in perpetuity.

Housing replacement by Federal agency as last resort

Section 206

Section 206(a): This section is amended to establish that the unavailability of suitable, as opposed to comparable replacement sale or rental dwellings, will determine whether last resort housing must be provided; subject to lead agency certification, States may establish statewide standards for the use of this section, provided that these standards require that persons in essentially similar circumstances are accorded equal treatment; where there is no State law, the lead agency shall promulgate a regulation to the effect that this section may not be used to exceed the payment ceilings under sections 203 and 204, except on a case-by-case basis, for good cause. The substitution of suitability for comparability is based on the same reasons established under Section 101(10). The transfer of regulatory responsibilities to the States is to give the Act greater flexibility than is now the case. The minimum Federal standard is to eliminate inequities as a result of divergent agency missions, subject to some cost-benefit consideration.

Section 206(b): This subsection is added to establish that a displacing agency's obligation to provide replacement housing under this section shall be met, whenever practicable, with existing public housing programs, and that the costs attributable to the provision of such housing shall be borne by the displacing agency. This is to emphasize the need for greater coordination of government programs.

Federal share of costs

Section 207

Section 211(a): This section is amended to delete outdated language establishing coverage under the Act for projects undertaken before July 1971. "State agency" is expanded to "displacing agency" for the purpose of clarity.

Section 211(b): This section is amended to expand the payments for which a displacing agency is eligible to receive any payment which serves essentially the same purpose as those provided for in the Act. This is to give States greater flexibility in designing relocation assistance programs than is now the case.

Administration

Section 208

Section 212: This section is amended to expand those functions a displacing agency may contract out to private firms or non-profit organizations. This is to eliminate government competition whenever possible.

Regulation and adjudication

Section 9

Section 213: This section is amended to require the President to establish a lead agency in a department, agency or other body. The lead agency issues uniform, government-wide regulations for use by all Federal agencies in administering the Act; coordinates, with the assistance of other agencies, relocation activities under subchapter II of the Act with Federal and federally assisted public housing programs; and performs other duties that pertain to the purposes of the Act. The uniform regulatory requirement is to eliminate burdensome paperwork caused by multiple Federal agency regulations.

Eligibility

Section 210

Section 216: This section is amended to require that payments made under Section in 204 of the Act will be considered in determining the recipient's eligibility for low income housing assistance. Currently such payments are not to be considered as income.

Transfer of surplus property

Section 211

Section 218: This section is amended to establish that the amount to be paid to the General Services Administration by a State after it disposes of surplus property transferred to the State by the Federal government pursuant to a Federal of federally assisted project will reflect only the net amounts received for such property, rather than all amounts as is currently the case. This compensates the States for the cost of marketing such property.

Repeals

Section 12

Sections 214, 215, 217 and 219 are repealed.

(a) Section 214: This section which pertains to the requirement to submit a report on displacement, and which lapsed in 1975, is repealed.

(b) Section 215: This section, pertaining to the authority of the head of any Federal agency to make loans for planning for relocation assistance activities by non-profit organizations, etc., is repealed due to the fact that this provision has never been implemented.

(c) Section 217: This section, which pertains to the Act's applicability to the now-defunct Department of Housing and Urban Development Model Cities Program, is repealed.

(d) Section 219: This Section, which pertains to the Act's applicability to a new-defunct program in New York city, is repealed.

Real property acquisition

Section 301(a)

Section 301(2): This section is amended to allow the head of the acquiring agency to forgo an appraisal where the acquisition of the property is a voluntary taking with a selling price under $700, or a donation, and the seller, after being fully informed of his right to an appraisal, waives such right; and to ensure that the owner or his representative is provided with a copy of a written justification of the approved appraisal. The appraisal waiver for donations is to provide greater flexibility for State and local governments; the waiver for voluntary sales of $700 or less is to protect the displacing agency from having to provide an appraisal where the value of the property is so low as to make an appraisal uneconomical. The appraisal justification is to facilitate "government in the sunshine".

Section 301(b)

Section 301(9): This section is amended to define an uneconomic remnant of property as one with little or no utility to the owner which is left after the partial acquisition of his property for a Federal or federally assisted project; and to direct the head of an agency administering a federally funded program to offer to acquire such an uneconomic remnant so that the owner or occupant would be eligible for the full benefits under the Act. This provision eliminates both ambiguities and the resulting inequities that result, particularly, where the character of a farm is changed by a partial acquisition.

Section 301(c)

Two new paragraphs are added to Section 301:

Section 301(10): Donations are allowed under this provision, notwithstanding the Constitutional requirement that just compensation be paid. The Act currently does not provide for such actions, and donations must, in turn, be allowed under agency authorizing legislation.

Section 301(11): A non-preemption provision is added to establish the supremacy of State law of eminent domain when a Federal agency is directly administering a taking. The intent is that condemnation under eminent domain be conducted in accordance with State rather than Federal eminent domain law. Over 95 percent of all acquisitions under the Act are so conducted; however, the 5 percent directly administered by Federal agencies (e.g., Interior, Corps) are not. This section would improve uniformity in Federal law and regulations, and would implement the Administration's concept of federalism.

Effective date

Section 401

Section 401: This section is added to establish that, with the exception of the lead agency provisions, the effective date of the Act is 12 months after the date of enactment. The 12 month lead time on the other provisions of the Act are to allow the Federal agencies and the States to develop conforming laws and regulations.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 25, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting, for referral to the appropriate Committee, a legislative proposal entitled, "Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments of 1982."

The proposed legislation would amend the Uniform Relocation and Real Property Act of 1970. That Act, which is generally applicable to agencies of the Federal government, established a uniform policy of fair and equitable treatment for persons displaced by Federal programs or Federally-assisted programs. In particular, the Act made available a number of benefits for persons displaced by the Federal government, including, for example, moving expenses incurred in relocating to a new home, and certain advisory assistance, as well as establishing uniform policies to govern acquisition of real property by Federal agencies.

It has come to our attention that since the enactment of the original Uniform Relocation and Real Property Act a number of problems have arisen in its application. These problems, many of which were cited in a 1978 Report of the General Accounting Office, "Changes Needed in the Uniform Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs," generally concern eligibility requirements for assistance under the Uniform Act, benefits available to persons displaced by Federal activity, and administrative procedures followed under the Act.

The amendments we are proposing would, we believe, ensure more equitable treatment for persons displaced by Federal action and would do so in a manner that is efficient and cost effective. Our amendments will help see to it that those who do need help under the Act get it and that the help they get—financial or otherwise—is useful and appropriate to their circumstances. Our proposed amendments will also, we believe, go a long way toward guaranteeing a consistent and evenhanded application of the Uniform Relocation and Real Property Acquisition Act by all Federal agencies. Overall, the amendments will result in greater efficiency and equity and reduced administrative costs in the implementation of the Uniform Act.

Sincerely,

DAVID A. STOCKMAN,
Director.●

ADDITIONAL COSPONSORS

S. 1664

At the request of Mr. ROTH, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1664, a bill to amend title 10, United States Code, to allow supplies under the control of departments and agencies within the Department of Defense to be transferred to the Federal Emergency Management Agency as if it were within the Department of Defense and to amend the Federal Civil Defense Act of 1950 to authorize the Federal Emergency Management Agency to loan to State and local governments property transferred to such agency from other Federal agencies as excess property.

S. 1817

At the request of Mr. MOYNIHAN, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1817, a bill to further the national security of the United States and the Nation's economy by providing grants for foreign language programs to improve foreign language study for elementary and secondary school students and to provide for per capita grants to reimburse institutions of higher education for part of the costs of providing foreign language instruction.

S. 1929

At the request of Mr. HATCH, the Senator from New Jersey (Mr. BRADLEY) was withdrawn as a cosponsor of S. 1929, a bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the

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American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 1958

At the request of Mr. DOLE, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 2078

At the request of Mr. HART, the Senator from Michigan (Mr. RIEGLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maryland (Mr. SARBANES), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 2078, a bill to prohibit the use of funds for the production of lethal binary chemical munitions.

S. 2080

At the request of Mr. KASTEN, the Senator from Nevada (Mr. CANNON), the Senator from Alabama (Mr. HEFLIN), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Indiana (Mr. QUAYLE), and the Senator from Oklahoma (Mr. Nickles) were added as cosponsors of S. 2080, a bill to amend the Federal Election Campaign Act to provide that all persons must comply with the act.

S. 2124

At the request of Mr. PRESSLER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2124, a bill to provide relief from honey imports.

S. 2148

At the request of Mr. HELMS, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2148, a bill to protect unborn human beings.

S. 2155

At the request of Mr. KASTEN, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 2155, a bill to require a foreign country be declared to be in default before payments are made by the U.S. Government for loans owed by such country or credits which have been extended to such country which have been guaranteed or assured by agencies of the U.S. Government.

S. 2202

At the request of Mr. ARMSTRONG, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2202, a bill to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes.

S. 2267

At the request of Mr. HEINZ, the Senator from Michigan (Mr. LEVIN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Alabama (Mr. HEFLIN), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of S. 2267, a bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations.

S. 2274

At the request of Mr. ROTH, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2274, a bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in the Department of Defense, the Department of Justice, and the Department of the Treasury, and for other purposes.

S. 2278

At the request of Mr. EAST, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2278, a bill to provide a policy of promoting public sector procurement of goods and services from profitmaking business concerns, and for other purposes.

S. 2291

At the request of Mr. DIXON, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 2291, a bill to require the Secretary of Agriculture to disseminate farm income estimates.

S. 2327

At the request of Mr. JACKSON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2327, a bill to amend the National Housing Act to provide for an emergency homeownership program, to authorize assistance to avoid mortgage defaults caused by adverse economic conditions, and for other purposes.

S. 2335

At the request of Mr. WEICKER, the Senator from Maine (Mr. COHEN), the Senator from Utah (Mr. HATCH), the Senator from Florida (Mrs. HAWKINS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2335, a bill to amend the Internal Revenue Code of 1954 to provide that any small issue which is part of a multiple lot shall meet the requirements of the small issue exemption.

S.2346

At the request of Mr. JACKSON, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2346, a bill to amend the National Housing Act to provide additional authorization for the Government National Mortgage Association tandem program and to express congressional opposition to certain rescissions, and for other purposes.

SENATE JOINT RESOLUTION 110

At the request of Mr. HATCH, the Senator from Nebraska (Mr. ZORINSKY), and the Senator from New Mexico (Mr. DOMENICI), were added as cosponsors of Senate Joint Resolution 110, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion.

SENATE JOINT RESOLUTION 156

At the request of Mr. KASTEN, the Senator from Georgia (Mr. MATTINGLY), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. MATHIAS), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Kansas (Mr. DOLE), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Joint Resolution 156, a joint resolution to designate April 9, 1982, as "POW-MIA Commemoration Day."

SENATE JOINT RESOLUTION 158

At the request of Mr. SYMMS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 158, a joint resolution expressing the policy of the Government of the United States of America with respect to the Government of Cuba.

SENATE JOINT RESOLUTION 167

At the request of Mr. DURENBERGER, the Senator from Nevada (Mr. CANNON), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Joint Resolution 167, a joint resolution to commemorate the 100th anniversary of the Knights of Columbus.

SENATE JOINT RESOLUTION 172

At the request of Mr. HELMS, the Senator from Utah (Mr. GARN), the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. COCHRAN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating Baltic Freedom Day.

SENATE JOINT RESOLUTION 175

At the request of Mr. KASTEN, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Joint Resolution 175, a joint resolution authorizing and requesting the President to proclaim "National Junior Bowling Championship Week."

SENATE JOINT RESOLUTION 180

At the request of Mr. WEICKER, the Senator from Utah (Mr. GARN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Arkansas (Mr. PRYOR), the Senator from Idaho (Mr. SYMMS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of Senate Joint Resolution 180, a joint resolution to authorize and request the President to issue a proclamation designating the week beginning May 9, 1982, as "National Small Business Week."

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. SASSER, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution relating to federally insured deposits.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. PRESSLER, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Concurrent Resolution 75, a concurrent resolution to preserve fiscal year 1980 impact funding levels, with adjustments for inflation.

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. MATHIAS, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Concurrent Resolution 79, a concurrent resolution recognizing the month of April as "Fair Housing Month."

SENATE RESOLUTION 299

At the request of Mr. WEICKER, the Senator from New York (Mr. MOYNIHAN), the Senator from Alaska (Mr. STEVENS), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 325

At the request of Mr. DIXON, the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

AMENDMENT NO. 1348

At the request of Mr. RANDOLPH, his name was added as a cosponsor of amendment No. 1348 proposed to Senate Resolution 20, a resolution providing for television and radio coverage of proceedings of the Senate.

AMENDMENT NO. 1349

At the request of Mr. RANDOLPH, his name was added as a cosponsor of amendment No. 1349 proposed to Senate Resolution 20, a resolution providing for television and radio coverage of proceedings of the Senate.

SENATE RESOLUTION 360—ORIGINAL RESOLUTION REPORTED DURING ADJOURNMENT WAIVING CONGRESSIONAL BUDGET ACT

Under the authority of the order of the Senate of April 1, 1982, Mr. TOWER, from the Committee on Armed Services, reported the following original resolution on April 8, 1982; which was referred to the Committee on the Budget:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2248, a bill to authorize appropriations for fiscal year 1983 for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2248 as reported by the Committee on Armed Services.

SENATE RESOLUTION 361—RESOLUTION TO COMMEMORATE THE ANNIVERSARY OF THE E. ROMERO HOSE AND FIRE COMPANY OF LAS VEGAS, NEW MEXICO

Mr. DOMENICI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 361

Whereas the E. Romero Hose and Fire Company was organized in 1882 by citizens of the town of Las Vegas, New Mexico, for the purpose of fighting fires in that town;

Whereas the firefighters are volunteers who sacrifice their time and risk their lives to protect the people and property of Las Vegas, New Mexico;

Whereas the E. Romero Hose and Fire Company remains to this day a volunteer fire department, with only drivers being paid;

Whereas the company still possesses its original bylaws and the original hose cart, which was pulled by volunteers when it was purchased in 1882;

Whereas the company is officially the oldest fire department in the State of New Mexico, having been incorporated by the Territorial Corporation Commission on May 9, 1888; and

Whereas this company has remained in continuous operation since its inception in 1882, and still provides its courageous and valiant services to the community of Las Vegas, New Mexico: Now, therefore, be it

Resolved, That the Senate extends its congratulations to the E. Romero Hose and Fire Company of Las Vegas, New Mexico, on the occasion of its 100th anniversary, and commends the E. Romero Hose and Fire Company for a century of exemplary public service rendered in the unselfish, volunteer spirit which lies at the heart of our Nation's strength.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the E. Romero Hose and Fire Company of Las Vegas, New Mexico and to Mr. Tony Ludi, Sr., chief of the company.

● Mr. DOMENICI. Mr. President, I rise today in recognition of a truly outstanding organization in my home State of New Mexico. This Memorial Day, the E. Romero Hose and Fire Company of Las Vegas, N. Mex., will celebrate its centennial. Since 1882, this company, the oldest fire department in New Mexico, has provided continuous service to the community of Las Vegas. It is and has always been a volunteer fire department; to this day, only the drivers are paid.

In 1881, a fire in the plaza area of Las Vegas destroyed an entire block of property. Following that disaster, the citizens of Las Vegas took decisive action to protect themselves and their property from the dangers of fire. On January 1, 1882, the first volunteers gathered to start a fire department, which was named after Eugenio Romero, a business merchant whose name was drawn out of a hat. Bylaws were written and the company, which at first had only a hose cart but no horses to pull it, began a century of valorous service.

The work of this company typifies the volunteer spirit that is vital to the strength of any community, and of which President Reagan has spoken so eloquently. It is all too easy for us to be caught up in our own concerns, and to ignore the needs of our neighbors. Hence, the volunteers of the E. Romero Hose and Fire Company are an inspiration to us all. I hold them up as an example for all Americans to see.●

AMENDMENTS SUBMITTED FOR PRINTING

EXTENSION OF EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

AMENDMENTS NOS. 1352 AND 1353

(Ordered to be printed and referred to the Committee on Energy and Natural Resources)

Mr. DURENBERGER submitted two amendments intended to be proposed by him to the bill (S. 2332) to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

STRATEGIC PETROLEUM RESERVE AND INTERNATIONAL ENERGY AGENCY

● Mr. DURENBERGER. Mr. President, I am today submitting two amendments to S. 2332, a bill to extend the authorization for U.S. participation in the programs of the International Energy Agency. I would ask that these amendments be referred to the Committee on Energy and Natural Resources for hearings and further consideration.

My first amendment would require the President to prepare a new drawdown plan for the strategic petroleum reserve consistent with the provisions of the Energy Policy and Conservation Act which is the basic legislative authorization for SPR. This amendment would require that the President transmit a drawdown plan for SPR to the Congress by September 30 of this year. Such a plan would be subject to congressional review according to the procedures described in EPCA.

This amendment is necessary because today the United States stands unprepared to respond in any meaningful way to disruptions of supply in world petroleum markets. Although there are a variety of energy laws on which the President could build a disruption management program, he has chosen to go forward without any specific plans at all. In recent legislation the Congress attempted to give the President complete discretion to design whatever program he thought best. That bill was vetoed by the President and after intense lobbying by the administration, the Senate sustained the veto. The President argued that he already had sufficient authority to design programs to protect public health and safety.

The Energy Policy and Conservation Act does authorize the President to allocate domestic oil supplies in coordination with the programs of the International Energy Agency. But we have no specific plans to do so. The Emergency Energy Conservation Act does authorize the President to impose demand constraints in the event of an energy emergency. But we have no specific plans to do so. Again, the Energy Policy and Conservation Act provides the President authority to build and use a strategic petroleum reserve to respond to energy emergencies. And although we are rapidly filling the reserve, we have no specific plans to use it.

It seems to this Senator that we are once again inviting a repeat of past mistakes. Without specific plans we are inviting midnight regulations that go into effect on an emergency basis with unnecessary and unacceptable impacts on the petroleum market.

I share with the President a firm commitment to the marketplace and market allocations of basic commodities. But no economist that I have read claims that a marketplace can provide efficient allocations in every situation. And the petroleum marketplace, controlled as it is by an international cartel, is a borderline case even in the best of times.

The failure to plan is most serious in the case of the strategic petroleum reserve. We now have 250 million barrels of oil in the reserve worth in the range of $8 billion. And this Congress will be asked to appropriate more billions for this purpose in the coming year. I have always been a firm advocate of SPR fill rates. I have voted for every increase and against every cut. I have done so because the SPR is our best line of defense against the disruptions of foreign supply. I have done so, because large quantities of SPR oil give us the opportunity to rely as much as possible on the marketplace for petroleum allocation.

Last year I joined with 15 other Senators to introduce legislation that provided the President a limited set of authorities to respond to an energy disruption. The theory of that legislation was that if we did the right things in the initial stages of a shortfall, we would never reach a point that required Government allocations and price controls. Allocations and price controls were a last resort for a very severe disruption in that legislative plan. The first resort was distribution from the SPR.

The goal for the strategic petroleum reserve is 750 million barrels. That much oil would allow us to compensate for a complete cutoff of our current import levels for 6 months. We are not to the 750-million-barrel goal, as yet. We are only at 250 million barrels. Even at that level, SPR distribution could be an important element in stabilizing markets during the early periods of a disruption. But we have no plan to use this oil. No Senator can tell his constituents how we plan to use $8 billion worth of Government oil in the event that our supply is interrupted. No refiner or marketer who is trying to decide the appropriate level of private inventories knows what role the Government inventories will play in the next shortfall. Rational ordering of the marketplace is not possible under these conditions.

There are some apparently who are of the belief that any plan to drawdown SPR will discourage creation of private stocks. On the contrary, I think the failure to have a plan produces this result. And I think that a plan, properly constructed, could, in fact, encourage private stocks by making it clear to all refiners that those who go into a shortfall unprepared will not be bailed out by the Government. SPR oil is not being stockpiled as a bailout for the refineries. It is being stored to protect the Nation's economy. At some point we will use it. Being well-prepared requires that both refiners and users know where that point is and what is expected of them if they are to be part of the drawdown plan.

Mr. President, my second amendment relates to the programs of the International Energy Agency.

Section 252 of the Energy Policy and Conservation Act was passed by the Congress in order to facilitate the participation of the U.S. energy companies in the activities of the International Energy Agency. These activities were to be in connection with preparation and participation in IEA programs designed for severe petroleum supply interruptions triggered by the provisions of the International Energy Agency agreement.

On December 10, 1981, the United States entered into an agreement to deal with "sub-trigger" supply problems which might also invoke petroleum price and allocation authorities.

Mr. President, my amendment would restrict the application of section 252 of the Energy Policy and Conservation Act to those situations which involve the IRA 7-percent trigger and to those situations only. Since section 252 includes authority for price and allocation controls and since the Congress has made it clear that these authorities should only be used in severe disruptions, this restriction is most appropriate.

Mr. President, I ask unanimous consent that these amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1352

On page 1, after line 5, insert the following new section

"STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN

"SEC. 2. On or before September 3, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act. Congressional review of such drawdown plan shall be in accordance with the provisions of section 159 of the Energy Policy and Conservation Act.".

AMENDMENT NO. 1353

On page 1, after line 5, insert the following new section:

"LIMITATION ON CERTAIN INTERNATIONAL ENERGY PROGRAM ACTIVITIES

"SEC. 3. Add at the end of section 252 of the Energy Policy and Conservation Act the following new subsection:

"'(m)(1) The authority granted by this section shall not be effective for the purpose of certain international energy program activities pursuant to the December 10, 1981, International Energy Agency agreement entitled, "Decision on Preparation for Future Supply Disruptions" concerning disruptions in oil supply which do not reach the seven percent level required to trigger the emergency allocation system.

"'(2) For the purpose of this subsection, such activities mean—

"'(A) any activation of questionnaires A and B, connected with procedures established for the emergency allocation program; and

"'(B) the development and implementation of measures to supplement the market forces,

to deal with disruptions in oil supply which do not reach the seven percent level required to trigger the emergency allocation system.'".●

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources.

On Friday, April 16, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building, the committee will hold a hearing to consider the following nominations: Samuel K. Lessey, Jr., to be Inspector General, U.S. Synthetic Fuels Corporation for a term of 7 years; and Robert W. Gambino to be Deputy Inspector General, U.S. Synthetic Fuels Corporation for a term of 7 years.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. David Doane of the committee staff at 224-7144.

Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Committee on Energy and Natural Resources.

On Thursday, April 29 at 10 a.m., the committee will hold a hearing on S. 2332, to extend the expiration date of section 252 of the Energy Policy and Conservation Act. Staff contact: David Doane at 224-7144.

On Monday, May 3 at 9:30 a.m., the committee will hold a hearing on S. 2305, the Federal Energy and Mineral Resources Act of 1982. Staff contact: Tony Bevinetto at 224-5161.

On Monday, May 10 at 10 a.m., the committee will hold a hearing on S. 1844, the Coal Distribution and Utilization Act of 1981. Staff contact: Gary Ellsworth at 224-7146.

On Tuesday, May 18 at 10 a.m., the committee will hold an oversight hearing on Federal property management and disposal. Staff contacts: Gary Ellsworth (224-7146) or Tony Bevinetto (224-5161).

Those wishing to testify or who wish to submit written statements for any of these hearings should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee has scheduled a legislative hearing on an administration bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646). The focus of this hearing will be on a provision to exempt block grant programs from Uniform Act coverage under the New Federalism and on a provision to prohibit the use of Federal eminent domain law from preempting State law.

The hearing will be conducted at 2 p.m. on April 22 in room 3302, Dirksen Senate Office Building. Those wishing to submit written statements to be included in the printed record of the hearing should send five copies to Ruth M. Doerflein, clerk, Subcommittee on Intergovernmental Relations, room 507, Carroll Arms Building, Washington, D.C. 20510.

For further information on the hearing, you may contact Paul Hewitt of the subcommittee staff on 224-4718.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that S. 1999, to amend the act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Va., will not be considered at the subcommittee hearing scheduled for Thursday, April 15.

SUBCOMMITTEE ON ENERGY REGULATION

Mr. HUMPHREY. Mr. President, I would like to announce for the information of the Senate and the public that the subcommittee hearing previously scheduled for Monday, April 26, to consider programs under the Office of the Federal Inspector for the Alaska natural gas transportation system, the Economic Regulatory Administration, and the Federal Energy Regulatory Commission, has been rescheduled for Friday, April 30, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

NUCLEAR FIRST USE DOCTRINE

● Mr. MATHIAS. Mr. President, last week four thoughtful and distinguished public figures—McGeorge Bundy, George F. Kennan, Robert S. McNamara, and Gerard Smith—called into question the wisdom of the longstanding Atlantic alliance doctrine that the United States would be willing to be the first to use nuclear weapons to defend against aggression in Europe. In an article in the spring issue of Foreign Affairs magazine, they proposed that the United States and the Soviet Union jointly renounce first use of nuclear weapons.

Several weeks ago, I called on the President to initiate a new round of strategic arms negotiations with the Soviet Union on an urgent basis and earlier last month a number of my colleagues called for a freeze on nuclear weapons production.

All of these efforts are reflections of the overwhelming desire of the peoples of the world to reduce the risk of nuclear war. All of them deserve attention.

Action on the questions of resuming arms control negotiations and a nuclear freeze rests with the President. However, the Senate is in a position to undertake the action that logically follows from the proposal of the Messrs. Bundy, Kennan, McNamara, and Smith—that is, to commission an expert and objective study of the first-use doctrine and to explore in detail all that a mutual renunciation by the Soviet Union and the United States of nuclear first use might entail.

Therefore, I have asked the chairmen of the Armed Services and the Foreign Relations Committees to commission such a study immediately. Thereafter, it would be my hope that each committee could conduct hearings to examine the concept from its own perspective.

Normally considerations of economy would militate against my submitting such a lengthy article for publication in the CONGRESSIONAL RECORD. I am making an exception in this case because every Member of the Senate, not just the members of the Armed Services and Foreign Relations Committees, should seriously examine this proposal and its implications for our total defense effort. To that end, I ask that the article from the spring issue of Foreign Affairs, entitled "Nuclear Weapons and the Atlantic Alliance," be printed in the RECORD.

The article follows:

NUCLEAR WEAPONS AND THE ATLANTIC ALLIANCE

(By McGeorge Bundy, George F. Kennan, Robert S. McNamara, and Gerard Smith)

We are four Americans who have been concerned over many years with the relation between nuclear weapons and the peace and freedom of the members of the Atlantic Alliance. Having learned that each of us separately has been coming to hold new views on this hard but vital question, we decided to see how far our thoughts, and the lessons of our varied experiences, could be put together; the essay that follows is the result. It argues that a new policy can bring great benefits, but it aims to start a discussion, not to end it.

For 33 years now, the Atlantic Alliance has relied on the asserted readiness of the United States to use nuclear weapons if necessary to repel aggression from the East. Initially, indeed, it was widely thought (notably by such great and different men as Winston Churchill and Niels Bohr) that the basic military balance in Europe was between American atomic bombs and the massive conventional forces of the Soviet Union. But the first Soviet explosion, in August 1949, ended the American monopoly only one month after the Senate approved the North Atlantic Treaty, and in 1950 communist aggression in Korea produced new Allied attention to the defense of Europe.

The "crude" atomic bombs of the 1940s have been followed in both countries by a fantastic proliferation of weapons and delivery systems, so that today the two parts of a still-divided Europe are targeted by many thousands of warheads both in the area and outside it. Within the Alliance, France and Britain have developed thermonuclear forces which are enormous compared to what the United States had at the beginning, although small by comparison with the present deployments of the superpowers. Doctrine has succeeded doctrine from "balanced collective forces" to "massive retaliation" to "mutual assured destruction" to "flexible response" and the "seamless web." Throughout these transformations, most of them occasioned at least in part by changes in the Western view of Soviet capabilities, both deployments and doctrines have been intended to deter Soviet aggression and keep the peace by maintaining a credible connection between any large-scale assault, whether conventional or nuclear, and the engagement of the strategic nuclear forces of the United States.

A major element in every doctrine has been that the United States has asserted its willingness to be the first—has indeed made plans to be the first if necessary—to use nuclear weapons to defend against aggression in Europe. It is this element that needs reexamination now. Both its cost to the coherence of the Alliance and its threat to the safety of the world are rising while its deterrent credibility declines.

This policy was first established when the American nuclear advantage was overwhelming, but that advantage has long since gone and cannot be recaptured. As early as the 1950s it was recognized by both Prime Minister Churchill and President Eisenhower that the nuclear strengths of both sides was becoming so great that a nuclear war would be a ghastly catastrophe for all concerned. The following decades have only confirmed and intensified that reality. The time has come for careful study of the ways and means of moving to a new Alliance policy and doctrine: that nuclear weapons will not be used unless an aggressor should use them first.

II

The disarray that currently besets the nuclear policy and practices of the Alliance is obvious. Governments and their representatives have maintained an appearance of unity as they persist in their support of the two-track decision of December 1979, under which 572 new American missiles of intermediate range are to be placed in Europe unless a satisfactory agreement on the limitation of such weapons can be reached in the negotiations between the United States and the Soviet Union that began last November. But behind this united front there are divisive debates, especially in countries where the new weapons are to be deployed.

The arguments put forward by advocates of these deployments contain troubling variations. The simplest and intuitively the most persuasive claim is that these new weapons are needed as a counter to the new Soviet SS-20 missiles; it may be a recognition of the surface attractiveness of this position that underlies President Reagan's striking—but probably not negotiable—proposal that if all the SS-20s are dismantled the planned deployments will be cancelled. Other officials have a quite different argument, that without new and survivable American weapons which can reach Russia from Western Europe there can be no confidence that the strategic forces of the United States will remain committed to the defense of Western Europe; on this argument the new missiles are needed to make it more likely that any war in Europe would bring nuclear warheads on the Soviet Union and thus deter the aggressor in the first place. This argument is logically distinct from any concern about the Soviet SS-20s, and it probably explains the ill-concealed hope of some planners that the Reagan proposal will be rejected. Such varied justifications cast considerable doubt on the real purpose of the proposed deployment.

An equally disturbing phenomenon is the gradual shift in the balance of argument that has occured since the need to address the problem was first asserted in 1977. Then the expression of need was European, and in the first instance German; the emerging parity of long-range strategic systems was asserted to create a need for a balance at less than intercontinental levels. The American interest developed relatively slowly, but because these were to be American missiles, American planners took the lead as the proposal was worked out. It has also served Soviet purposes to concentrate on the American role. A similar focus has been chosen by many leaders of the new movement for nuclear disarmament in Europe. And now there are American voices, some in the executive branch, talking as if European acceptance of these new missiles were some sort of test of European loyalty to the Alliance. Meanwhile some of those in Europe who remain publicly committed to both tracks of the 1979 agreement are clearly hoping that the day of deployment will never arrive. When the very origins of a new proposal become the source of irritated argument among allies—"You started it!"—something is badly wrong in our common understanding.

A still more severe instance of disarray, one which has occurred under both President Carter and President Reagan, relates to the so-called neutron bomb, a weapon designed to meet the threat of Soviet tanks. American military planners, authorized by doctrine to think in terms of early battlefield use of nuclear weapons, naturally want more "up-to-date" weapons than those they have now; it is known that thousands of the aging short-range nuclear weapons now in Europe are hard to use effectively. Yet to a great many Europeans the neutron bomb suggests, however unfairly, that the Americans are preparing to fight a "limited" nuclear war on their soil. Moreover neither weapons designers nor the Pentagon officials they have persuaded seem to have understood the intense and special revulsion that is associated with killing by "enhanced radiation."

All these recent distempers have a deeper cause. They are rooted in the fact that the evolution of essentially equivalent and enormously excessive nuclear weapons systems both in the Soviet Union and in the Atlantic Alliance has aroused new concern about the dangers of all forms of nuclear war. The profusion of these systems, on both sides, has made it more difficult than ever to construct rational plans for any first use of these weapons by anyone.

This problem is more acute than before, but it is not new. Even in the 1950s, a time that is often mistakenly perceived as one of effortless American superiority, the prospect of any actual use of tactical weapons was properly terrifying to Europeans and to more than a few Americans. Military plans for such use remained both deeply secret and highly hypothetical; the coherence of the Alliance was maintained by general neglect of such scenarios, not by sedulous public discussion. In the 1960s there was a prolonged and stressful effort to address the problem of theater-range weapons, but agreement on new forces and plans for their use proved elusive. Eventually the proposal for a multilateral force (MLF) was replaced by the assignment of American Polaris submarines to NATO, and by the creation in Brussels of an inter-allied Nuclear Planning Group. Little else was accomplished. In both decades the Alliance kept itself together more by mutual political confidence than by plausible nuclear war-fighting plans.

Although the first years of the 1970s produced a welcome if oversold détente, complacency soon began to fade. The Nixon Administration, rather quietly, raised the question about the long-run credibility of the American nuclear deterrent that was to be elaborated by Henry Kissinger in 1979 at a meeting in Brussels. Further impetus to both new doctrine and new deployments came during the Ford and Carter Administrations, but each public statement, however careful and qualified, only increased European apprehensions. The purpose of both Administrations was to reinforce deterrence, but the result has been to increase fear of nuclear war, and even of Americans as its possible initiators. Intended as contributions to both rationality and credibility, these excursions into the theory of limited nuclear war have been counterproductive in Europe.

Yet it was not wrong to raise these matters. Questions that were answered largely by silence in the 1950s and 1960s cannot be so handled in the 1980s. The problem was not in the fact that the questions were raised, but in the way they seemed to be answered.

It is time to recognize that no one has ever succeeded in advancing any persuasive reason to believe that any use of nuclear weapons, even on the smallest scale, could reliably be expected to remain limited. Every serious analysis and every military exercise, for over 25 years, has demonstrated that even the most restrained battlefield use would be enormously destructive to civilian life and property. There is no way for anyone to have any confidence that such a nuclear action will not lead to further and more devastating exchanges. Any use of nuclear weapons in Europe, by the Alliance or against it, carries with it a high and inescapable risk of escalation into the general nuclear war which would bring ruin to all and victory to none.

The one clearly definable firebreak against the worldwide disaster of general nuclear war is the one that stands between all other kinds of conflict and any use whatsoever of nuclear weapons. To keep that firebreak wide and strong is in the deepest interest of all mankind. In retrospect, indeed, it is remarkable that this country has not responded to this reality more quickly. Given the appalling consequences of even the most limited use of nuclear weapons and the total impossibility for both sides of any guarantee against unlimited escalation, there must be the gravest doubt about the wisdom of a policy which asserts the effectiveness of any first use of nuclear weapons by either side. So it seems timely to consider the possibilities, the requirements, the difficulties, and the advantages of a policy of no-first-use.

III

The largest question presented by any proposal for an Allied policy of no-first-use is that of its impact on the effectiveness of NATO's deterrent posture on the central front. In spite of the doubts that are created by any honest look at the probable consequences of resort to a first nuclear strike of any kind, it should be remembered that there were strong reasons for the creation of the American nuclear umbrella over NATO. The original American pledge, expressed in Article 5 of the Treaty, was understood to be a nuclear guarantee. It was extended at a time when only a conventional Soviet threat existed, so a readiness for first use was plainly implied from the beginning. To modify that guarantee now, even in the light of all that has happened since, would be a major change in the assumptions of the Alliance, and no such change should be made without the most careful exploration of its implications.

In such an exploration the role of the Federal Republic of Germany must be central. Americans too easily forget what the people of the Federal Republic never can: that their position is triply exposed in a fashion unique among the large industrial democracies. They do not have nuclear weapons; they share a long common boundary with the Soviet empire; in any conflict on the central front their land would be the first battleground. None of these conditions can be changed, and together they present a formidable challenge.

Having decisively rejected a policy of neutrality, the Federal Republic has necessarily relied on the nuclear protection of the United States, and we Americans should recognize that this relationship is not a favor we are doing our German friends, but the best available solution of a common problem. Both nations believe that the Federal Republic must be defended; both believe that the Federal Republic must not have nuclear weapons of its own; both believe that nuclear guarantees of some sort are essential; and both believe that only the United States can provide those guarantees in persuasively deterrent peacekeeping form.

The uniqueness of the West German position can be readily demonstrated by comparing it with those of France and the United Kingdom. These two nations have distance, and in one case water, between them and the armies of the Soviet Union; they also have nuclear weapons. While those weapons may contribute something to the common strength of the Alliance, their main role is to underpin a residual national self-reliance, expressed in different ways at different times by different governments, which sets both Britain and France apart from the Federal Republic. They are set apart from the United States too, in that no other nation depends on them to use their nuclear weapons otherwise than in their own ultimate self-defense.

The quite special character of the nuclear relationship between the Federal Republic and the United States is a most powerful reason for defining that relationship with great care. It is rare for one major nation to depend entirely on another for a form of strength that is vital to its survival. It is unprecedented for any nation, however powerful, to pledge itself to a course of action, in defense of another, that might entail its own nuclear devastation. A policy of no-first-use would not and should not imply an abandonment of this extraordinary guarantee—only its redefinition. it would still be necessary to be ready to reply with American nuclear weapons to any nuclear attack on the Federal Republic, and this commitment would in itself be sufficiently demanding to constitute a powerful demonstration that a policy of no-first-use would represent no abandonment of our German ally.

The German right to a voice in this question is not merely a matter of location, or even of dependence on an American nuclear guarantee. The people of the Federal Republic have demonstrated a steadfast dedication to peace, to collective defense, and to domestic political decency. The study here proposed should be responsive to their basic desires. It seems probable that they are like the rest of us in wishing most of all to have no war of any kind, but also to be able to defend the peace by forces that do not require the dreadful choice of nuclear escalation.

IV

While we believe that careful study will lead to a firm conclusion that it is time to move decisively toward a policy of no-first-use, it is obvious that any such policy would require a strengthened confidence in the adequacy of the conventional forces of the Alliance, above all the forces in place on the central front and those available for prompt reinforcement. It seems clear that the nations of the Alliance together can provide whatever forces are needed, and within realistic budgetary constraints, but it is a quite different question whether they can summon the necessary political will. Evidence from the history of the Alliance is mixed. There has been great progress in the conventional defenses of NATO in the 30 years since the 1952 Lisbon communiqué, but there have also been failures to meet force goals all along the way.

In each of the four nations which account for more than 90 percent of NATO's collective defense and a still higher proportion of its strength on the central front, there remain major unresolved political issues that critically affect contributions to conventional deterrence: for example, it can be asked what priority the United Kingdom gives to the British Army of the Rhine, what level of NATO-connected deployment can be accepted by France, what degree of German relative strength is acceptable to the Allies and fair to the Federal Republic itself, and whether we Americans have a durable and effective answer to our military manpower needs in the present all-volunteer active and reserve forces. These are the kinds of questions—and there are many more—that would require review and resolution in the course of reaching any final decision to move to a responsible policy of no-first-use.

There should also be an examination of the ways in which the concept of early use of nuclear weapons may have been built into existing forces, tactics, and general military expectations. To the degree that this has happened, there could be a dangerous gap right now between real capabilities and those which political leaders might wish to have in a time of crisis. Conversely there should be careful study of what a policy of no-first-use would require in those same terms. It seems more than likely that once the military leaders of the Alliance have learned to think and act steadily on this "conventional" assumption, their forces will be better instruments for stability in crises and for general deterrence, as well as for the maintenance of the nuclear firebreak so vital to us all.

No one should underestimate either the difficulty or the importance of the shift in military attitudes implied by a no-first-use policy. Although military commanders are well aware of the terrible dangers in any exchange of nuclear weapons, it is a strong military tradition to maintain that aggressive war, not the use of any one weapon, is the central evil. Many officers will be initially unenthusiastic about any formal policy that puts limits on their recourse to a weapon of apparently decisive power. Yet the basic argument for a no-first-use policy can be stated in strictly military terms: that any other course involves unacceptable risks to the national life that military forces exist to defend. The military officers of the Alliance can be expected to understand the force of this proposition, even if many of them do not initially agree with it. Moreover, there is every reason for confidence that they will loyally accept any policy that has the support of their governments and the peoples behind them, just as they have fully accepted the present arrangements under which the use of nuclear weapons, even in retaliation for a nuclear attack, requires advance and specific approval by the head of government.

An Allied posture of no-first-use would have one special effect that can be set forth in advance: it would draw new attention to the importance of maintaining and improving the specifically American conventional forces in Europe. The principal political difficulty in a policy of no-first-use is that it may be taken in Europe, and especially in the Federal Republic, as evidence of a reduced American interest in the Alliance and in effective overall deterrence. The argument here is exactly the opposite: that such a policy is the best one available for keeping the Alliance united and effective. Nonetheless the psychological realities of the relation between the Federal Republic and the United States are such that the only way to prevent corrosive German suspicion of American intentions, under a no-first-use regime, will be for Americans to accept for themselves an appropriate share in any new level of conventional effort that the policy may require.

Yet it would be wrong to make any hasty judgment that those new levels of effort must be excessively high. The subject is complex, and the more so because both technology and politics are changing. Precision-guided munitions, in technology, and the visible weakening of the military solidity of the Warsaw Pact, in politics, are only two examples of changes working to the advantage of the Alliance. Moreover there has been some tendency, over many years, to exaggerate the relative conventional strength of the U.S.S.R. and to underestimate Soviet awareness of the enormous costs and risks of any form of aggression against NATO.

Today there is literally no one who really knows what would be needed. Most of the measures routinely used in both official and private analyses are static and fragmentary. An especially arbitrary, if obviously convenient, measure of progress is that of spending levels. But it is political will, not budgetary pressure, that will be decisive. The value of greater safety from both nuclear and conventional danger is so great that even if careful analysis showed that the necessary conventional posture would require funding larger than the three-percent real increase that has been the common target of recent years, it would be the best bargain ever offered to the members of the Alliance.

Yet there is no need for crash programs, which always bring extra costs. The direction of the Allied effort will be more important than its velocity. The final establishment of a firm policy of no-first-use, in any case, will obviously require time. What is important today is to begin to move in this direction.

V

The concept of renouncing any first use of nuclear weapons should also be tested by careful review of the value of existing NATO plans for selective and limited use of nuclear weapons. While many scenarios for nuclear war-fighting are nonsensical, it must be recognized that cautious and sober senior officers have found it prudent to ask themselves what alternatives to defeat they could propose to their civilian superiors if a massive conventional Soviet attack seemed about to make a decisive breakthrough. This question has generated contingency plans for battlefield uses of small numbers of nuclear weapons which might prevent that particular disaster. It is hard to see how any such action could be taken without the most enormous risk of rapid and catastrophic escalation, but it is a fair challenge to a policy of no-first-use that it should be accompanied by a level of conventional strength that would make such plans unnecessary.

In the light of this difficulty it would be prudent to consider whether there is any acceptable policy short of no-first-use. One possible example is what might be called "no-*early*-first-use;" such a policy might leave open the option of some limited nuclear action to fend off a final large-scale conventional defeat, and by renunciation of any immediate first use and increased emphasis on conventional capabilities it might be thought to help somewhat in reducing current fears.

But the value of a clear and simple position would be great, especially in its effect on ourselves and our Allies. One trouble with exceptions is that they easily become rules. It seems much better that even the most responsible choice of even the most limited nuclear actions to prevent even the most imminent conventional disaster should be left out of authorized policy. What the Alliance needs most today is not the refinement of its nuclear options, but a clear-cut decision to avoid them as long as others do.

VI

Who should make the examination here proposed? The present American Administration has so far shown little interest in questions of this sort, and indeed a seeming callousness in some quarters in Washington toward nuclear dangers may be partly responsible for some of the recent unrest in Europe. But each of the four of us has served in Administrations which revised their early thoughts on nuclear weapons policy. James Byrnes learned the need to seek international control; John Foster Dulles stepped back somewhat from his early belief in massive retaliation; Dwight Eisenhower came to believe in the effort to ban nuclear tests which he at first thought dangerous; the Administration of John F. Kennedy (in which we all served) modified its early views on targeting doctrine; Lyndon Johnson shelved the proposed MLF when he decided it was causing more trouble than it was worth; and Richard Nixon agreed to narrow limits on anti-ballistic missiles whose large-scale deployment he had once thought indispensable. There were changes also in the Ford and Carter Administrations, and President Reagan has already adjusted his views on the usefulness of early arms controls negotiations, even though we remain in a time of general stress between Washington and Moscow. No Administration should be held, and none should hold itself, to inflexible first positions on these extraordinarily difficult matters.

Nor does this question need to wait upon governments for study. The day is long past when public awe and governmental secrecy made nuclear policy a matter for only the most private executive determination. The questions presented by a policy of no-first-use must indeed be decided by governments, but they can and should be considered by citizens. In recent months strong private voices have been raised on both sides of the Atlantic on behalf of strengthened conventional forces. When this cause is argued by such men as Christoph Bertram, Field Marshal Lord Carver, Admiral Noel Gayler, Professor Michael Howard, Henry Kissinger, François de Rose, Theo Sommer, and General Maxwell Taylor, to name only a few, it is fair to conclude that at least in its general direction the present argument is not outside the mainstream of thinking within the Alliance. Indeed there is evidence of renewed concern for conventional forces in governments too.

What should be added, in both public and private sectors, is a fresh, sustained, and careful consideration of the requirements and the benefits of deciding that the policy of the Atlantic Alliance should be to keep its nuclear weapons unused as long as others do the same. Our own belief, though we do not here assert it as proven, is that when this possibility is fully explored it will be evident that the advantages of the policy far outweigh its costs, and that this demonstration will help the peoples and governments of the Alliance to find the political will to move in this direction. In this spirit we go on to sketch the benefits that could come from such a change.

VII

The first possible advantage of a policy of no-first-use is in the management of the nuclear deterrent forces that would still be necessary. Once we escape from the need to plan for a first use that is credible, we can escape also from many of the complex arguments that have led to assertions that all sorts of new nuclear capabilities are necessary to create or restore a capability for something called "escalation dominance"—a capability to fight and "win" a nuclear war at any level. What would be needed, under no-first-use, is a set of capabilities we already have in overflowing measure—capabilities for appropriate retaliation to any kind of Soviet nuclear attack which would leave the Soviet Union in no doubt that it too should adhere to a policy of no-first-use. The Soviet government is already aware of the awful risk inherent in any use of these weapons, and there is no current or prospective Soviet "superiority" that would tempt anyone in Moscow toward nuclear adventurism. (All four of us are wholly unpersuaded by the argument advanced in recent years that the Soviet Union could ever rationally expect to gain from such a wild effort as a massive first strike on land-based American strategic missiles.)

Once it is clear that the only nuclear need of the Alliance is for adequately survivable and varied second strike forces, requirements for the modernization of major nuclear systems will become more modest than has been assumed. In particular we can escape from the notion that we must somehow match everything the rocket commanders in the Soviet Union extract from their government. It seems doubtful, also, that under such a policy it would be necessary or desirable to deploy neutron bombs. The savings permitted by more modest programs could go toward meeting the financial costs of our contribution to conventional forces.

It is important to avoid misunderstanding here. In the conditions of the 1980s, and in the absence of agreement on both sides to proceed to very large-scale reductions in nuclear forces, it is clear that large, varied, and survivable nuclear forces will still be necessary for nuclear deterrence. The point is not that we Americans should move unilaterally to some "minimum" force of a few tens or even hundreds of missiles, but rather that once we escape from the pressure to seem willing and able to use these weapons first, we shall find that our requirements are much less massive than is now widely supposed.

A posture of no-first-use should also go far to meet the understandable anxieties that underlie much of the new interest in nuclear disarmament, both in Europe and in our own country. Some of the proposals generated by this new interest may lack practicability for the present. For example, proposals to make "all" of Europe—from Portugal to Poland—a nuclear-free zone do not seem to take full account of the reality that thousands of long-range weapons deep in the Soviet Union will still be able to target Western Europe. But a policy of no-first-use, with its accompaniment of a reduced requirement for new Allied nuclear systems, should allow a considerable reduction in fears of all sorts. Certainly such a new policy would neutralize the highly disruptive argument currently put about in Europe: that plans for theater nuclear modernization reflect an American hope to fight a nuclear war limited to Europe. Such modernization might or might not be needed under a policy of no-first-use; that question, given the size and versatility of other existing and prospective American forces, would be a matter primarily for European decision (as it is today).

An effective policy of no-first-use will also reduce the risk of conventional aggression in Europe. That risk has never been as great as prophets of doom have claimed and has always lain primarily in the possibility that Soviet leaders might think they could achieve some quick and limited gain that would be accepted because no defense or reply could be concerted. That temptation has been much reduced by the Allied conventional deployments achieved in the last 20 years, and it would be reduced still further by the additional shift in the balance of Allied effort that a no-first-use policy would both permit and require. The risk that an adventurist Soviet leader might take the terrible gamble of conventional aggression was greater in the past than it is today, and is greater today that it would be under no-first-use, backed up by an effective conventional defense.

VIII

We have been discussing a problem of military policy, but our interest is also political. The principal immediate danger in the current military posture of the Alliance is not that it will lead to large-scale war, conventional or nuclear. The balance of terror, and the caution of both sides, appear strong enough today to prevent such a catastrophe, at least in the absence of some deeply destabilizing political change which might lead to panic or adventurism on either side. But the present unbalanced reliance on nuclear weapons, if long continued, might produce exactly such political change. The events of the last year have shown that differing perceptions of the role of nuclear weapons can lead to destructive recriminations, and when these differences are compounded by understandable disagreements on other matters such as Poland and the

Middle East, the possibilities for trouble among Allies are evident.

The political coherence of the Alliance, especially in times of stress, is at least as important as the military strength required to maintain credible deterrence. Indeed the political requirement has, if anything, an even higher priority. Soviet leaders would be most pleased to help the Alliance fall into total disarray, and would much prefer such a development to the inescapable uncertainties of open conflict. Conversely, if consensus is re-established on a military policy that the peoples and governments of the Alliance can believe in, both political will and deterrent credibility will be reinforced. Plenty of hard questions will remain, but both fear and mistrust will be reduced, and they are the most immediate enemies.

There remains one underlying reality which could not be removed by even the most explicit declaratory policy of no-first-use. Even if the nuclear powers of the Alliance should join, with the support of other Allies, in a policy of no-first-use, and even if that decision should lead to a common declaration of such policy by these powers and the Soviet Union, no one on either side could guarantee beyond all possible doubt that if conventional warfare broke out on a large scale there would in fact be no use of nuclear weapons. We could not make that assumption about the Soviet Union, and we must recognize that Soviet leaders could not make it about us. As long as the weapons themselves exist, the possibility of their use will remain.

But this inescapable reality does not under cut the value of a no-first-use policy. That value is first of all for the internal health of the Western Alliance itself. A posture of effective conventional balance and survivable second-strike nuclear strength is vastly better for our own peoples and governments, in a deep sense more civilized, than one that forces the serious contemplation of "limited" nuclear scenarios that are at once terrifying and implausible.

There is strong reason to believe that no-first-use can also help in our relations with the Soviet Union. The Soviet government has repeatedly offered to joined the West in declaring such a policy, and while such declarations may have only limited reliability, it would be wrong to disregard the real value to both sides of a jointly declared adherence to this policy. To renounce the first use of nuclear weapons is to accept an enormous burden of responsibility for any later violation. The existence of such a clearly declared common pledge would increase the cost and risk of any sudden use of nuclear weapons by either side and correspondingly reduce the political force of spoken or unspoken threats of such use.

A posture and policy of no-first-use also could help to open the path toward serious reduction of nuclear armaments on both sides. The nuclear decades have shown how hard it is to get agreements that really do constrain these weapons, and no one can say with assurance that any one step can make a decisive difference. But just as a policy of no-first-use should reduce the pressures on our side for massive new nuclear forces, it should help to increase the international incentives for the Soviet Union to show some restraint of its own. It is important not to exaggerate here, and certainly Soviet policies on procurement are not merely delayed mirror-images of ours. Nonetheless there are connections between what is said and what is done even in the Soviet Union, and there are incentives for moderation, even there, that could be strengthened by a jointly declared policy of renouncing first use. At a minimum such a declaration would give both sides additional reason to seek for agreements that would prevent a vastly expensive and potentially destabilizing contest for some kind of strategic advantage in outer space.

Finally, and in sum, we think a policy of no-first-use, especially if shared with the Soviet Union, would bring new hope to everyone in every country whose life is shadowed by the hideous possibility of a third great twentieth-century conflict in Europe—conventional or nuclear. It seems timely and even urgent to begin the careful study of a policy that could help to sweep this threat clean off the board of international affairs.

IX

We recognize that we have only opened this large question, that we have exhausted no aspect of it, and that we may have omitted important elements. We know that NATO is much more than its four strongest military members; we know that a policy of no-first-use in the Alliance would at once raise questions about America's stance in Korea and indeed other parts of Asia. We have chosen deliberately to focus on the central front of our central alliance, believing that a right choice there can only help toward right choices elsewhere.

What we dare to hope for is the kind of new and widespread consideration of the policy we have outlined that helped us 15 years ago toward SALT I, 25 years ago toward the Limited Test Ban, and 35 years ago toward the Alliance itself. Such consideration can be made all the more earnest and hopeful by keeping in mind one simple and frequently neglected reality: there has been no first use of nuclear weapons since 1945, and no one in any country regrets that fact. The right way to maintain this record is to recognize that in the age of massive thermonuclear overkill it no longer makes sense—if it ever did—to hold these weapons for any other purpose than the prevention of their use.●

BUREAU OF RECLAMATION'S 80TH BIRTHDAY

● Mr. LAXALT. Mr. President, in just 2 short months—on June 17, 1982, to be precise—the Interior Department's Bureau of Reclamation will mark the completion of 80 years of outstanding service to the people of the West. During that time, water from Reclamation reservoirs and canals have literally transformed the arid regions of our Western States into some of the most productive farmland anywhere in the world. The Bureau's facilities include more than 670 dams and 51,000 miles of canals, pipelines, laterals, and tunnels. Reclamation reservoirs offer outstanding recreational opportunities for millions of people. Reclamation powerplants provide clean, low-cost electricity for millions of individual users. Mr. President, Reclamation project facilities will continue delivering benefits for years to come, and new Reclamation projects are still being built.

It is of great significance that on the eve of the Bureau of Reclamation's 80th birthday, the Senate will have an opportunity to play a key role in charting the Bureau's future course. Formal consideration will begin soon on a bill to modernize the 1902 Reclamation Act, in particular its provisions dealing with farm size and eligibility to receive low-cost irrigation water. Mr. President, the importance of Reclamation reform was highlighted very effectively by Robert N. Broadbent, the Commissioner of Reclamation, when he addressed members of the Colorado River Water Users Association at their annual meeting held in Las Vegas, Nev. In his address, Commissioner Broadbent gives an informative sketch of the Bureau of Reclamation and the part it will play in the future of western water resource development. I commend the Commissioner's remarks to the attention of my colleagues and request unanimous consent that the excerpts from his address be printed in the RECORD at this time.

The excerpts follow:

THE "NEW" BUREAU OF RECLAMATION

I had planned to speak to you today about the "new" Bureau of Reclamation—that is, about the new directions the Administration is going in the Reclamation program, what we've done so far, and where we'll we going in the years ahead.

Instead, what I'd like to do is give a highly condensed sketch of the "new" Bureau of Reclamation, and devote the remaining time to the subject of modernizing the 1902 Reclamation Act. That is the Bureau of Reclamation's number one priority, and the real "keystone" to our plans for the future.

To set the tone for the "new" Bureau of Reclamation, we promptly restored the Bureau's traditional name. It was no secret that the Reagan Administration—and practically everyone in the water resource community—regarded the awkward name "Water and Power Resources Service" as a temporary aberration. Going back to the right name for the Bureau set the tone for our programs. They are based on respect for the traditional role of water resource development in the West and on recognition of the Bureau of Reclamation in performing that role down through the years. The temporary name, by contrast, totally ignored the accomplishments of the Bureau of Reclamation in developing the American West. And the temporary name was full of negative connotations of the so-called "hit list" and the Carter Administration's "war on the West."

We didn't want to be negative. We want to be positive.

The Reagan Administration and the "new" Bureau of Reclamation believe in western water development. We recognize water as vital to the continued prosperity of this part of the country. In all the discussions and deliberations over how western water resource goals are to be reached, you can be confident that this Administration solidly supports western water development.

To get water development going again, we faced some basic facts:

Economic recovery comes first;

Water is principally a State right; and

State and local support is essential.

National economic recovery has got to come first. That means more investment by States, localities, and other non-Federal entities in future water projects. It means innovative financial packages for investment in hydropower and water supply facilities. And it means more of a State-Federal partnership in a process which, until now, has been too heavily controlled and financed out of Washington, D.C.

We want decisionmaking returned to the greatest degree possible to the people affected by the decisions. And we don't want to finance water projects solely by increasing the national debt.

While facing economic realities, we have been working to ease the non-financial burdens.

Deregulation was a key part of the Republican platform that Ronald Reagan was elected on. Accordingly, deregulation has a high profile in the Reagan Administration.

As part of our work to become good neighbors to the people affected by what we do, we have contacted a wide range of public and private officials. We have asked for their help in identifying burdensome regulations that could be revoked or simplified. People have been responding positively.

Governors and water agency officials, irrigators, municipal water user groups, and technical and trade associations have responded. They have helped us focus on dozens of government rules and procedures that could be simplified or done away with. We have followed through with official recommendations for making the needed improvements, and we are starting to get results.

Deregulation, States' rights, financial innovations, and continued support for water resource development—those are the main themes of the "new" Bureau of Reclamation. We are preserving the traditional values of the Reclamation program. We are moving into the future with some solid policies that will keep the Reclamation program going on a sound, business-like footing. I am proud to be at the head of that effort.

I am especially pleased that Congress is once again giving serious attention to updating the Reclamation law. It is time that the impasse over acreage limitation and excess lands be resolved. To one degree or another, there are excess lands problems in each of the 17 Reclamation States. The problems created by the outdated law are extremely complex. Congress has tried twice before to resolve the situation. Both times they were unable to complete legislative action.

Getting Reclamation law modernized is not going to be easy. The job of Congress in this matter is to examine the original purpose of the Reclamation program, decide how best to tailor it to fit today's economic and agricultural conditions, and to package the result in a way that will attract and achieve a consensus.

The last part is going to be the hardest. Different interests are holding fast to some conflicting positions. Congress will be faced with forging those widely diverging points of view into a product that represents the public interest.

Not everyone with a viewpoint on farm size is willing to compromise. Oddly enough, some of the groups with the most hard-line positions are the ones with the least at stake in the outcome of the problem.

If Congress is guided by a spirit of accommodation and reconciliation, I am confident a workable solution can be reached. Reclamation law was never intended to reward smallness for its own sake, nor to penalize farmers for operating successfully enough to expand their irrigated acreage. Acreage limitation was intended to curb speculation in Federally irrigated farmland by making water available to bona fide farmers and by discouraging land brokers.

As the main Administration witness at the Senate and House hearings, Secretary Watt commended Congressman Lujan and Senator McClure for introducing their bills on updating Reclamation law. He reaffirmed his pledge to work with the Senate and the House Committees to move that legislation along.

The Secretary's testimony began with a tribute to the value of the Reclamation program to the United States:

1980 production of $7.4 billion in crops on lands irrigated with Reclamation water;

Municipal water for over 19 million people;

45 billion kilowatt-hours of power generated in 1980;

Recreation opportunities for 67 million people a year;

Plus flood control, fish & wildlife habitat, and other benefits.

Even lawmakers occasionally need to be reminded of the tremendous returns our country receives from the relatively modest investment it has made in Reclamation.

The Secretary acknowledged the current complicated regulatory scheme, which acts as an artificial constraint. Under Federal court decisions, he said, the Interior Department has no choice but to go ahead with rules implementing an outdated, counterproductive law.

Secretary Watt commented in detail on provisions of Congressman Lujan's bill and Senator McClure's bill. Then he offered some improvements.

The most important change suggested by the Secretary is establishing a single ownership limit of 960 acres to apply throughout the Reclamation West. For larger landholdings, on leased land, Federal water would still be available, but the landholder would pay the full cost of water used on all land over that 960-acre limit.

We support unlimited leasing, but not unlimited subsidies.

In our view, a landholding over 960 acres should not be granted an unlimited Federal water subsidy.

The 960-acre limitation, with full cost pricing for water above the 960-acre limit, would be fair to all concerned and would be easy to administer.

For those larger farms, Secretary Watt recommends "full cost" repayment. It means exactly that: full cost.

Instead of calculating interest at the rate that was in effect when a project was built, we believe it should be calculated at what it is actually costing the Treasury today. The full cost rate only applies to the larger farms, and only to the part of their operations over 960 acres. The overwhelming majority of farms, therefore, would not be affected. And for those larger farms that would be affected, we believe it is fair to ask for a return to the U.S. Treasury of the amount it is actually costing the government to finance the project costs associated with the excess lands.

With those changes, we believe the longstanding problem over accommodating current farm operations to an outmoded law can be solved.

Secretary Watt's proposals are workable and fair. Congress should be able to form a consensus around them and pass a bill based on those proposals. President Reagan will be able to sign a bill like that, and we will be able to bring a troubling and complicated chapter of Reclamation history to a successful conclusion.

I personally am pleased and encouraged that the overall Reclamation outlook is strongly positive. We are working on an Administration proposal for substantially shortening the time required to get projects from the planning stage to the construction stage. A faster track for the planning and authorization processes will save time and money. Our work on eliminating burdensome regulations is one ingredient in the effort to speed things up. Streamlining the environmental impact statement process, which we are also doing, is another. Our ongoing construction projects are being completed. And we are hoping for a new project start in 1983.

I am gratified by the positive feedback we have been getting from individuals and groups in the Reclamation West. Our message—affirming balance in natural resources decisionmaking, pledging to be good neighbors to those affected by what we do, and upholding the principles of sound stewardship for our land and water resources—has struck a responsive chord throughout the West. We're glad to know that you think we're on the right track.

I would like to conclude by reminding you of the seriousness of purpose with which this Administration is tackling economic recovery. President Reagan summed it up very pointedly in his televised Address to the Nation on September 24, 1981. He described the massive interest payments on the national debt and talked about the pressures for more spending, and said, "Well, what all of this is leading up to is, 'What do we plan to do?' Last week I met with the Cabinet to take up this matter. I'm proud to say there was no handwringing, no pleading to avoid further budget cuts. We all agreed that the 'tax and tax, spend and spend' policies of the last few decades lead only to economic disaster. Our government must return to the tradition of living within our means and must do it now. We asked ourselves two questions," the President said, "and answered them: 'If not us, who? If not now, when?' "●

TAX INDEXING

● Mr. ARMSTRONG. Mr. President, Monday's Wall Street Journal describes "Tax indexing as the very heart of tax reform." The Wall Street Journal is right. The inclusion of tax indexing in last year's tax bill is considered by many thoughtful observers to be the most important single tax reform ever. In essence, tax indexing means Americans will never pay higher taxes because of inflation.

I urge my colleagues to read all the reasons why the Wall Street Journal believes tax indexing must remain intact.

The article follows:

TAX BOMB

Last year's tax package contained a UXB (unexploded bomb) called tax indexation. Because it has received so relatively little attention, it is emerging as the favorite expendable for members of Congress who want to scuttle the tax cuts. They are kidding themselves if they think the voters aren't going to notice.

Indexing is the very heart of tax reform. Due to take effect in 1985, after the scheduled 5%-10%-10% rate cuts, it is designed to protect taxpayers thereafter against bracket creep. Bracket creep means that taxpayers whose incomes climb apace with inflation get pushed into higher and higher tax brackets, even though their real incomes remain constant; real, after-tax incomes, needless to say, are thus eroded. Indexation would adjust individual tax brackets (including the zero brackets) and personal exemptions each year to net out the impact of inflation.

Congress is beginning to wake up to what a terrible thing it did to itself when it passed the indexing provision: It outlawed the automatic tax increases that for years have permitted it to have larger revenues to spend without asking voter permission. As Harvard economist Martin Feldstein points out, for each 1% rise in the inflation rate, the government can count on at least a 1.6% rise in revenues.

Studies have shown that the combination of bracket creep and massive Social Security tax increases have doubled the effective tax rate on middle-income families in the last decade. At the rate of taxation and inflation we were experiencing before the 1981 reforms, a family of four earning only $10,000 would have had its effective tax rate more than double in just three years, according to a 1980 study by the Advisory Commission on Intergovernmental Relations.

This was truly insidious. Not only did Congress escape accountability for raising taxes, but it acquired a very large stake in allowing inflation to continue eroding the nation's wealth and productive base. It was only when the tax revolt spread through the states and finally erupted in the election of Ronald Reagan and a Republican Senate that Congress finally adopted indexing.

The states that have indexed have learned just how much they were profiting from bracket creep. Minnesota, for example, estimates it has lost $900 million in revenues since it indexed four years ago. Although such estimates seldom take account of the depressive effect continued rises in taxes would have had on economic activity, it is no wonder Congress wants to reclaim what it surrendered.

With a free ride on taxes, our elected representatives have built all kinds of automatic increases into their budgets. Social Security payments go up automatically; federal pensions increase even faster. Special interests charge that they've been cut to the bone if their subsidies don't rise by at least the rate of inflation.

The big projected deficits Washington is trying to use as a fright wig to drive the voters into giving up the tax rate cuts they won last year do not really reflect a reduction in taxes; the rate cuts will only about compensate for bracket creep. The projected gaps, then, just demonstrate how much the government has come to depend on hidden tax increases to pay its bills.

A key issue in the current Washington debate is whether the tax rate cuts will force Congress to restrain its spending impulses. The would-be index scuttlers would have us believe that legislators have become so manic that they will merely rush headlong towards larger and larger deficits until the world comes to an end.

We doubt it. Canada, for example, indexed in 1974. The deficit promptly shot up—but that was due to expenditures which had already been committed. National government spending as a percent of GNP topped out in 1975 and has been coming down ever since.

National experiences are not always transferable, but we prefer to think that the U.S. Congress is as capable of fiscal responsibility as Joe Clark and Pierre Trudeau if it gives itself half a chance. Indexing is more than half a chance. It imposes a requirement, one that was long overdue and one which should not be tampered with.●

SENATOR SARBANES SALUTES BALTIMORE PROJECT SURVIVAL HONOREES

● Mr. SARBANES. Mr. President, the renaissance and rebirth of the city of Baltimore has been widely heralded and acclaimed for the vitality and spirit that this unique achievement has created.

This have been an effort of the entire community, led by some of the very best public officials in the country, working closely with talented and dedicated individual citizens concerned about the quality of urban life and opportunitites for all the people. Baltimore is a shining example of an urban partnership in which the entire community has joined in a cooperative effort at every level.

For the past 12 years, an important part of that spirit has been Project Survival, which has contributed greatly to the growth and development of deserving young people in Baltimore's inner city. As the basketball and educational program of the Urban Services Agency, Project Survival has sponsored scholarships, tutoring and classroom instruction, career guidance and college placement services, basketball clinics, and summer leagues to motivate students to achieve academic and athletic excellence.

I am extremely pleased to report that, as part of its fourth annual testimonial, Project Survival is honoring two distinguished Marylanders: Jim Parker, former Baltimore Colts all pro tackle, and Allen "Dickie" Burke, Baltimore city police officer and founder of Recreation on Wheels, also known as Operation Champ.

Ohio State Coach Woody Hayes once called Jim Parker "the finest all-around football player I ever coached." After he was named to the All-American Team for 3 successive years, he was named the Nation's outstanding lineman in 1956 and was awarded the Outland Trophy. The following year, the Baltimore Colts made him their No. 1 draft choice and Jim went on to enjoy an exceptional professional career marked by an impressive array of prestigious awards, including the Ohio Governor's Cup Award and induction into the Pro-Football Hall of Fame. Now that his pro-football days are over, Jim Parker remains an active leader in his community and a shining example to Maryland youth.

Dickie Burke, a native Baltimorean and graduate of Douglass High School and Morgan College, excelled in sports, resulting in his induction into the Morgan Hall of Fame, and played professional basketball with the Baltimore Mets. After several years with the Baltimore Police Department, Officer Burke helped form and direct the Western Police Youth League to improve relations between police officers and youth through recreational and cultural programs. His efforts helped make Baltimore one of 10 pilot cities in the Nation to participate in the Recreation on Wheels Program for Inner City Youth. Because of these and his many other accomplishments, Dickie Burke is today recognized as one of the great pioneers in fostering youth programs and racial understanding in the police departments of America's great cities.

This testimonial to Jim Parker and Dickie Burke has been organized by many of Baltimore's leading citizens. Coach Earl C. Banks, who served with national distinction for many years as head football coach at Morgan State University, is chairman of the event. John H. Murphy III, the distinguished chairman of the board of the Afro-American Newspapers, is vice chairman and City Council President Walter Orlinsky is working as chairman for business and industry support. Honorary chairmen include the Governor of Maryland, Harry Hughes; the mayor of Baltimore, William Donald Schaefer; and former Baltimore Colts great, Johnny Unitas.

Mr. President, Dickie Burke and Jim Parker are an inspiration to their fellow athletes, to their community, and to the many young people who have been touched by their examples of sportsmanship and much-deserved success. I ask my colleagues to join me and the many other friends and supporters of Project Survival in honoring these outstanding gentlemen.●

RESOLUTION ADOPTED BY CONNECTICUT STATE BOARD OF EDUCATION ON FEDERAL EDUCATION PROGRAMS

● Mr. WEICKER. Mr. Speaker, I commend to my colleagues a resolution regarding the effects of the proposed New Federalism on education, which was unanimously adopted by the Connecticut State Board of Education on April 7, 1982.

To justify proposals for substantive changes in legislation and drastically reduced Federal funding, the administration has repeatedly stated that the results of these proposals would be to increase flexibility for State and local governments and reduce administrative burdens on the educational agencies under the legislative statutes. To assume that State and local governments will function more efficiently with less Federal assistance is erroneous and misleading. In addition, to assume that education programs such as those under the Education for All Handicapped Children Act will be as effective with major changes in their statutes and regulations is wishful thinking. The only result we can be certain of is that reduced Federal regulations and decreased funds will result in fewer services to less individuals and diminished educational opportunities in general.

It is evident that the State and local governments are not embracing this New Federalism as a means for improving the educational system of our Nation. Representatives from the State and local levels of government have expressed their concern about the administration's attempt to remove the Federal role from education.

I am pleased that the Connecticut State Board of Education in its resolution has called for continued Federal funding at the 1981 level or higher, retaining the Department of Education, and encouraging State and local flexibility without diminishing the equal rights and opportunities for all citizens. Furthermore, the resolution calls for assurance from the Federal Government that public education be reestablished as a matter of highest national priority.

Mr. President, I ask that the text of the resolution be printed at this point in the RECORD.

The resolution referred to is as follows:

CONNECTICUT STATE BOARD OF EDUCATION, HARTFORD

Whereas the President of the United States of America has delivered to Congress his State of the Union message for 1982 and his proposed Budget of the United States Government for Fiscal Year 1983; and

Whereas the President has proposed a 1983 education budget that—

Transforms the present Department of Education into a Foundation for Educational Assistance;

Makes block grants out of the vocational education programs and handicapped education programs;

Reduces by more than 40 percent the total grant awards for elementary and secondary education from $116.9 million in 1980-81 to $68.6 million for 1983-84;

Transfers 28 education programs to other federal agencies; and

Whereas the proposals of the President of the United States will waste human capital and will create future hardships for children in our schools through—

Severe cuts in funds for vocational education, in an age of high technology and automation when it is critical to modernize and upgrade vocational education;

Diminishing support for special education, thus undermining both the progress made in educating the handicapped to be productive citizens and the hope provided to their parents;

Reduction in resources for bilingual education;

Cutbacks in programs for the educationally disadvantaged;

Deletion of the special milk programs and the summer food service program; and

Whereas investment in the development of human resources that will result in a well-educated citizenry is critical to the well-being of this nation and its citizens, and should be a continuing commitment of the federal government: Now, therefore be it

Resolved, That the Connecticut State Board of Education urges the President to reconsider and it requests, in the national interest as well as in the interest of the towns and cities of the state and the citizens whose lives are being affected, that the Congress, particularly the Senators and Congressmen representing the State of Connecticut, make every effort to—

Continue the federal funding for education to the 1980-81 level or higher;

Encourage state/local flexibility without diminishing the equal rights and opportunities of all citizens, without discrimination;

Keep the Department of Education;

Consider carefully the President's recommendations, evaluating each of its own merits and, to avoid passing legislation and making changes in a crisis situation, act only after careful study, and

Insure that the education of children in this nation's public schools be reestablished as a national priority and that such education be supported and properly administered in a federal/state/local partnership; insure that public education be reestablished as a matter of highest priority at the local, state, and federal levels,

and empowers the Secretary to take the necessary action.●

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORT ON S. 2248 UNTIL 6 P.M. TONIGHT

Mr. BAKER. I ask unanimous consent that the Committee on Armed Services have until 6 p.m. tonight, Tuesday, April 13, to file a report to accompany S. 2248, the Department of Defense Authorization bills for 1983 and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent, first, after the recognition of the two leaders under the standing order, that the following Senators be recognized on special order for not to exceed 15 minutes: Senators BAKER, STEVENS, MATHIAS, KASSEBAUM, DANFORTH, and CHAFEE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the Senators to be recognized on special order, there be a period for the transaction of routine morning business in which Senators may speak for not more than 5 minutes each, and to extend from the time of the expiration of the special orders until not past the hour of 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

TIME LIMITATION PROPOSAL ON PENDING SYMMS AMENDMENTS

Mr. BAKER. Mr. President, at 12:30 p.m. the Senate will resume consideration of Senate Resolution 20 to provide for television coverage in the Senate, at which time an amendment by the distinguished Senator from Idaho (Mr. SYMMS) will be the pending question.

I will not put this unanimous-consent request at this time, but it will be my intention to attempt to gain unanimous consent to provide that on the Symms amendment which, I presume, is the second-degree Symms amendment—

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. There be 3 hours under the control of the Senator from Idaho (Mr. SYMMS); 2 hours equally divided between the chairman of the Committee on Foreign Relations (Mr. PERCY) and the ranking minority member (Mr. PELL) or their designees, and that at the conclusion of that time or the yielding back thereof the Senate proceed to vote back-to-back in relation to the two Symms amendments.

I repeat, I will not put that request at this time, but it is my hope that during the morning hour tomorrow or during leaders' time or another appropriate time we may be able to clear that request so that we can provide certainty for the rollcall vote or votes in relation to the Symms amendments.

After the Symms amendments are dealt with, Mr. President, if further amendments are to be offered, they will, or course, be taken up in sequence. It is my hope that we can complete consideration of Senate Resolution 20 this week.

EXECUTIVE CALENDAR

Mr. President, there are certain other matters that may be dealt with tomorrow, including treaties that are on the Executive Calendar. An effort will be made to clear those at some time in advance of the effort of the leadership on tomorrow.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no further business to be transacted by the Senate today, and I see no Senators seeking recognition.

I move, Mr. President, in accordance with the order just entered, that the Senate now stand in recess until the hour of 10:30 a.m. on tomorrow.

The motion was agreed to; and at 4:42 p.m. the Senate recessed until Wednesday, April 14, 1982, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate April 5, 1982, under authority of the order of the Senate of April 1, 1982:

Department of State

James Eugene Goodby, of New Hampshire, a Career Member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as Vice Chairman, U.S. Delegation to the Strategic Arms Reductions Talks (START) and Department of State Representative.

National Advisory Council on Women's Educational Programs

The following-named persons to be Members of the National Advisory Council on Women's Educational Programs for the terms indicated:

For the remainder of the term expiring May 8, 1983:

Lilli K. Dollinger, of Texas, vice Rhine Lana McLin.

For a term expiring May 8, 1983:

Mary Jo Arndt, of Illinois, vice Kathleen Elaine Humphrey, term expired.

Marge Bodwell, of New Mexico, vice Paul Parks, term expired.

Marcilyn D. Leier, of Minnesota, vice Bernice Sandler, term expired.

Virginia Gillham Tinsley, of Arizona, vice Eliza Macaulay Carney, term expired.

For a term expiring May 8, 1984:

Judith D. Moss, of Ohio, vice Susan Margaret Vance, term expired.

Marie Sheehan Muhler, of New Jersey, vice Carolyn L. Attneave, term expired.

Susan E. Phillips, of Virginia, vice Ellen Sherry Hoffman, term expired.

Eleanor Knee Rooks, of Tennessee, vice J. Richard Rossie term expired.

Maria Pornaby Shuhi, of Florida, vice Sister M. Isolina Ferre, term expired.

Helen J. Valerio, of Massachusetts, vice Anna Doyle Levesque, term expired.

For a term expiring May 8, 1985:

Betty Ann Gault Gordoba, of California, vice K. Jessie Kobayashi, term expiring.

Gilda Bojorquez Gjurich, of California, vice Jewel Limar Prestage, term expiring.

Irene Renee Robinson, of the District of Columbia, vice Maria Concepcion Bechily, term expiring.

Judy F. Rolfe, of Montana, vice Virginia Foxx, term expiring.

Eunice S. Thomas, of Georgia, vice Barbara M. Carey, term expiring.

In the Navy

Adm. James D. Watkins, U.S. Navy, for appointment as Chief of Naval Operations in the Department of the Navy for a term of 4 years pursuant to title 10, United States Code, section 5081 (a), and (b).

Admiral Watkins, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 601, for this appointment while so serving.

In the Air Force

Gen. David C. Jones, U.S. Air Force, (age 60), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

Executive nominations received by the Secretary of the Senate April 7, 1982, under authority of the order of the Senate of April 1, 1982:

Department of Justice

Stanley I. Marcus, of Michigan, to be U.S. attorney for the southern district of Florida for the term of 4 years vice Jacob V. Eskenazi, deceased.

In the Army

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, and 533:

Colonels

Keefe, Francis L., xxx-xx-xxxx

Lieutenant Colonels

Barbernitz, John P., xxx-xx-xxxx
Bell, Robert E., Jr., xxx-xx-xxxx
Birnkammer, Eve, xxx-xx-xxxx
Freeman, Kenneth S., xxx-xx-xxxx
Gruber, Robert C., xxx-xx-xxxx
Kita, Edward J., xxx-xx-xxxx
Norrod, Forrest P., Jr., xxx-xx-xxxx
Widdle, Thomas H., xxx-xx-xxxx
Wilson, Howard H., xxx-xx-xxxx

Majors

Dillion, William P., xxx-xx-xxxx
Hendrickson, J. F., xxx-xx-xxxx
Kounk, Clinton M., xxx-xx-xxxx
Kramer, Harry C., xxx-xx-xxxx
Mercher, Lee A., xxx-xx-xxxx
Moffitt, William, xxx-xx-xxxx
Myers, Raymond G., xxx-xx-xxxx
Shaw, Joel D., xxx-xx-xxxx
Smith, Jimmy M., xxx-xx-xxxx
Zurcher, Robert E., xxx-xx-xxxx

In the Navy

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefore as provided by law:

Beasdale, Donald J.
LaLonde, Harold H.
Lee, Rocky R.

The following-named candidates in the Enlisted Commissioning Program to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefore as provided by law:

Aboc, Jovito Q.
Nachtsheim, Timothy
Uncel, Mary J.
Young, Judy H.

Cmdr David C. Swearingen, Medical Corps, U.S. Naval Reserve, to be appointed a permanent commander in the Medical Corps of the U.S. Navy, subject to qualification therefore as provided by law.

The following-named enlisted candidates to be appointed permanent ensign in the Medical Service Corps of the U.S. Navy, subject to qualification therefore as provided by law:

Apel, Renee L.
Bourrie, Francis D.
Bowling, Gregory
Buck, Deborah M.
Collins, Mary K.
Connor, John J.
Davis, Glorianne M.
DeWeese, Harold T.
Dulac, Sharon E.
Durbin, Joseph L.
Ekstrom, Syble L.
Friedrichsen, Neil G.
Godlewski, Stanley, Jr.
Greer, Kathleen K.
Henderson, Carl D.
Henry, Richard A.
Hill, Hardy L.
Isley, Wynett A.
Johnson, Robert R.
Manning, Mark D.
McGivern, Steven T.
Olson, Conrad W.
Osment, Howard T.
Plunkard, Larry L.
Reese, William V.
Saunders, John L., Jr.
Steinhauser, Elenamaria D.
Thacker, R.S.
Werner, Joseph J., Jr.
Whetstone, Roger D.

Capt. John T. Collins, Medical Corps, U.S. Navy, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefore as provided by law.

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefore as provided by law.

Larson, James L.
Nettles, Willard H.
Ross, Gerald W.

Creighton G. Bellinger, ex-Naval Reserve officer, to be a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefore as provided by law.

The following-named medical college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefore as provided by law:

Campaigne, Robert J.
O'Neil, Bernerd L
Skuza, John J.

Executive nominations received by the Secretary of the Senate April 12, 1982, under authority of the order of the Senate of April 1, 1982:

Department of Justice

William S. Price, of Oklahoma, to be U.S. attorney for the western district of Oklahoma for the term of 4 years vice David L. Russell, resigned.

William A. Kolibash, of West Virginia, to be U.S. attorney for the northern district of West Virginia for the term of 4 years vice James F. Companion, resigned.

In the Air Force

Gen. Robert C. Mathis, U.S. Air Force, (age 54), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.